

102^D CONGRESS
2^D SESSION

H. R. 5617

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 30), 1992

Received

AN ACT

To provide Congressional approval of a Governing
International Fishery Agreement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Oceans Act of 1992".

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1 **TITLE I—APPROVAL OF GOV-**
2 **ERNING INTERNATIONAL**
3 **FISHERY AGREEMENT**

4 **SEC. 1001. APPROVAL OF AGREEMENT.**

5 Notwithstanding section 203 of the Magnuson Fish-
6 ery Conservation and Management Act (16 U.S.C. 1823),
7 the governing international fishery agreement between the
8 Government of the United States of America and the Gov-
9 ernment of the Republic of Estonia, as contained in the
10 message to Congress from the President of the United
11 States dated June 24, 1992, is approved by the Congress
12 as a governing international fishery agreement for the
13 purposes of such Act and shall enter into force and effect
14 with respect to the United States on the date of enactment
15 of this title.

16 **TITLE II—NATIONAL MARINE**
17 **SANCTUARIES PROGRAM**

18 **SEC. 2001. SHORT TITLE.**

19 This title may be cited as the “National Marine Sanc-
20 tuaries Program Amendments Act of 1992”.

1 Subtitle A—Amendments To Ma-
2 rine Protection, Research, and
3 Sanctuaries Act of 1972

4 SEC. 2101. FINDINGS, PURPOSES, AND POLICIES.

5 (a) FINDINGS.—Section 301(a) of the Marine Protec-
6 tion, Research, and Sanctuaries Act of 1972 (16 U.S.C.
7 1431(a)) is amended—

8 (1) in paragraph (2) by inserting “, and in
9 some cases international,” after “national”;

10 (2) in paragraph (4)—

11 (A) by inserting “, research,” after “con-
12 servation”; and

13 (B) by striking “and” after the semicolon
14 at the end;

15 (3) in paragraph (5) by striking the period at
16 the end and inserting “; and”; and

17 (4) by adding at the end the following:

18 “(6) protection of these special areas can con-
19 tribute to maintaining a natural assemblage of living
20 resources for future generations.”.

21 (b) PURPOSES AND POLICIES.—Section 301(b) of the
22 Marine Protection, Research, and Sanctuaries Act of 1972
23 (16 U.S.C. 1431(b)) is amended to read as follows:

24 “(b) PURPOSES AND POLICIES.—The purposes and
25 policies of this title are—

1 “(1) to identify and designate as national ma-
2 rine sanctuaries areas of the marine environment
3 which are of special national significance;

4 “(2) to provide authority for comprehensive and
5 coordinated conservation and management of these
6 marine areas, and activities affecting them, in a
7 manner which complements existing regulatory au-
8 thorities;

9 “(3) to support, promote, and coordinate sci-
10 entific research on, and monitoring of, the resources
11 of these marine areas, especially long-term monitor-
12 ing and research of these areas;

13 “(4) to enhance public awareness, understand-
14 ing, appreciation, and wise use of the marine envi-
15 ronment;

16 “(5) to facilitate to the extent compatible with
17 the primary objective of resource protection, all pub-
18 lic and private uses of the resources of these marine
19 areas not prohibited pursuant to other authorities;

20 “(6) to develop and implement coordinated
21 plans for the protection and management of these
22 areas with appropriate Federal agencies, State and
23 local governments, Native American tribes and orga-
24 nizations, international organizations, and other

1 public and private interests concerned with the con-
2 tinuing health and resilience of these marine areas;

3 “(7) to create models of, and incentives for,
4 ways to conserve and manage these areas;

5 “(8) to cooperate with global programs encour-
6 aging conservation of marine resources; and

7 “(9) to maintain, restore, and enhance living
8 resources by providing places for species that depend
9 upon these marine areas to survive and propagate.”.

10 **SEC. 2102. DEFINITIONS.**

11 (a) **MARINE ENVIRONMENT.**—Section 302(3) of the
12 Marine Protection, Research, and Sanctuaries Act of 1972
13 (16 U.S.C. 1432(3)) is amended by adding “including the
14 exclusive economic zone,” after “jurisdiction,”.

15 (b) **DAMAGES.**—Section 302(6) of the Marine Protec-
16 tion, Research, and Sanctuaries Act of 1972 (16 U.S.C.
17 1432(6)) is amended—

18 (1) in subparagraph (A)(ii) by striking “and”
19 at the end;

20 (2) in subparagraph (B) by adding “and” at
21 the end; and

22 (3) by adding at the end the following:

23 “(C) the reasonable cost of monitoring ap-
24 propriate to the injured, restored, or replaced
25 resources;”.

1 (c) RESPONSE COSTS.—Section 302(7) of the Marine
2 Protection, Research, and Sanctuaries Act of 1972 (16
3 U.S.C. 1432(7)) is amended by inserting “or authorized”
4 after “taken”.

5 (d) EXCLUSIVE ECONOMIC ZONE.—Section 302 of
6 the Marine Protection, Research, and Sanctuaries Act of
7 1972 (16 U.S.C. 1432) is amended (1) by striking the
8 period at the end of paragraph (8) and inserting “; and”;
9 and (2) by adding after paragraph (8) the following:

10 “(9) ‘exclusive economic zone’ means the exclu-
11 sive economic zone as defined in the Magnuson Fish-
12 ery Conservation and Management Act.”.

13 (e) TECHNICAL CORRECTION.—Section 302 of the
14 Marine Protection, Research, and Sanctuaries Act of 1972
15 (16 U.S.C. 1432) is amended—

16 (1) in paragraph (1) by striking
17 “304(a)(1)(E)” and inserting “304(a)(1)(C)(v)”;
18 and

19 (2) in paragraph (5) by striking “and” after
20 the semicolon.

21 **SEC. 2103. SANCTUARY DESIGNATION STANDARDS.**

22 (a) STANDARDS.—Section 303(a)(2)(B) of the Ma-
23 rine Protection, Research, and Sanctuaries Act of 1972
24 (16 U.S.C. 1433(a)(2)(B)) is amended by inserting “or
25 should be supplemented” after “inadequate”.

1 (b) FACTORS AND CONSULTATIONS.—

2 (1) Section 303(b)(1)(A) of the Marine Protec-
3 tion, Research, and Sanctuaries Act of 1972 (16
4 U.S.C. 1433(b)(1)(A)) is amended by inserting
5 “maintenance of critical habitat of endangered spe-
6 cies,” after “assemblages,”.

7 (2) Section 303(b)(3) of the Marine Protection,
8 Research, and Sanctuaries Act of 1972 (16 U.S.C.
9 1433(b)(3)) is amended—

10 (A) by inserting “, governmental,” after
11 “other commercial” and inserting “, govern-
12 mental,” after “any commercial”;

13 (B) by adding at the end the following:
14 “The Secretary, in consultation with the Sec-
15 retary of Defense, the Secretary of Energy, and
16 the Administrator, shall draft a resource assess-
17 ment section for the report, including informa-
18 tion on any past, present, or proposed future
19 disposal or discharge of materials in the vicinity
20 of the proposed sanctuary. Public disclosure by
21 the Secretary of such information shall be con-
22 sistent with national security regulations.”; and

23 (C) by striking “304(a)(1)” and inserting
24 “304(a)(2)”.

1 **SEC. 2104. PROCEDURES FOR DESIGNATION AND IMPLE-**
2 **MENTATION.**

3 (a) **SANCTUARY PROPOSAL.**—Section 304(a) of the
4 Marine Protection, Research, and Sanctuaries Act of 1972
5 (16 U.S.C. 1434(a)) is amended—

6 (1) by striking “prospectus” whenever it ap-
7 pears and inserting “documents”;

8 (2) in paragraph (1)(C) by striking “a prospec-
9 tus on the proposal which shall contain—” and in-
10 sserting “documents, including an executive sum-
11 mary, consisting of—”; and

12 (3) in paragraph (5)—

13 (A) by striking “United States Fishery
14 Conservation Zone” and inserting “exclusive
15 economic zone”; and

16 (B) by adding at the end: “The Secretary
17 shall also cooperate with other appropriate fish-
18 ery management authorities with rights or re-
19 sponsibilities within a proposed sanctuary at the
20 earliest practicable stage in drafting any sanc-
21 tuary fishing regulations.”.

22 (b) **TAKING EFFECT OF DESIGNATIONS.**—Section
23 304(b) of the Marine Protection, Research, and Sanc-
24 tuaries Act of 1972 (16 U.S.C. 1434(b)) is amended—

25 (1) in paragraph (1) by striking the dash after
26 “unless” and all that follows and inserting “, in the

1 case of a national marine sanctuary that is located
2 partially or entirely within the seaward boundary of
3 any State, the Governor affected certifies to the Sec-
4 retary that the designation or any of its terms is un-
5 acceptable, in which case the designation or the un-
6 acceptable term shall not take effect in the area of
7 the sanctuary lying within the seaward boundary of
8 the State.”;

9 (2) in paragraph (2)—

10 (A) striking “paragraph (1) (A) or (B)”
11 and inserting “paragraph (1)”;

12 (B) by striking “not disapproved under
13 paragraph (1)(A) or”; and

14 (C) by striking “paragraph (1)(B)” and in-
15 serting “paragraph (1)”;

16 (3) by striking paragraph (3) and redesignating
17 paragraph (4) as paragraph (3).

18 (c) ACCESS AND VALID RIGHTS.—Section 304(c)(1)
19 of the Marine Protection, Research, and Sanctuaries Act
20 of 1972 (16 U.S.C. 1434(c)(1)) is amended to read as
21 follows:

22 “(1) Nothing in this title shall be construed as
23 terminating or granting to the Secretary the right to
24 terminate any valid lease, permit, license, or right of
25 subsistence use or of access that is in existence on

1 the date of designation of any national marine sanc-
2 tuary.”.

3 (d) INTERAGENCY COOPERATION; REVIEW OF MAN-
4 AGEMENT PLAN.—Section 304 of the Marine Protection,
5 Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434)
6 is amended by adding at the end the following new sub-
7 sections:

8 “(d) INTERAGENCY COOPERATION.—

9 “(1) REVIEW OF AGENCY ACTIONS.—

10 “(A) IN GENERAL.—Federal agency ac-
11 tions internal or external to a national marine
12 sanctuary, including private activities author-
13 ized by licenses, leases, or permits, that are
14 likely to destroy, cause the loss of, or injure any
15 sanctuary resource are subject to consultation
16 with the Secretary.

17 “(B) AGENCY STATEMENTS REQUIRED.—
18 Subject to any regulations the Secretary may
19 establish each Federal agency proposing an ac-
20 tion described in subparagraph (A) shall pro-
21 vide the Secretary with a written statement de-
22 scribing the action and its potential effects on
23 sanctuary resources at the earliest practicable
24 time, but in no case later than 45 days before
25 the final approval of the action unless such

1 Federal agency and the Secretary agree to a
2 different schedule.

3 “(2) SECRETARY’S RECOMMENDED ALTER-
4 NATIVES.—If the Secretary finds that a Federal
5 agency action is likely to destroy, cause the loss of,
6 or injure a sanctuary resource, the Secretary shall
7 (within 45 days of receipt of complete information
8 on the proposed agency action) recommend reason-
9 able and prudent alternatives, which may include
10 conduct of the action elsewhere, which can be taken
11 by the Federal agency in implementing the agency
12 action that will protect sanctuary resources.

13 “(3) RESPONSE TO RECOMMENDATIONS.—The
14 agency head who receives the Secretary’s rec-
15 ommended alternatives under paragraph (2) shall
16 promptly consult with the Secretary on the alter-
17 natives. If the agency head decides not to follow the
18 alternatives, the agency head shall provide the Sec-
19 retary with a written statement explaining the rea-
20 sons for that decision.

21 “(c) REVIEW OF MANAGEMENT PLANS.—Not more
22 than 5 years after the date of designation of any national
23 marine sanctuary, and thereafter at intervals not exceed-
24 ing 5 years, the Secretary shall evaluate the substantive
25 progress toward implementing the management plan and

1 goals for the sanctuary, especially the effectiveness of site-
2 specific management techniques, and shall revise the man-
3 agement plan and regulations as necessary to fulfill the
4 purposes and policies of this title.”.

5 **SEC. 2105. APPLICATION OF REGULATIONS; INTER-**
6 **NATIONAL COOPERATION.**

7 (a) **ENFORCEABILITY; INTERNATIONAL COOPERA-**
8 **TION.**—Section 305 of the Marine Protection, Research,
9 and Sanctuaries Act of 1972 (16 U.S.C. 1435) is
10 amended—

11 (1) in subsection (a)—

12 (A) by striking “The” in the first sentence
13 and inserting in lieu thereof “This title and
14 the”; and

15 (B) by inserting “or be enforced against”
16 immediately after “apply to”; and

17 (2) by adding at the end the following new sub-
18 section:

19 “(c) **INTERNATIONAL COOPERATION.**—The Sec-
20 retary, in consultation with the Secretary of State and
21 other appropriate Federal agencies, shall cooperate with
22 other governments and international organizations in fur-
23 therance of the purposes and policies of this title and con-
24 sistent with applicable regional and multilateral arrange-

1 ments for the protection and management of special ma-
2 rine areas.”.

3 (b) **TECHNICAL AMENDMENT.**—The section heading
4 for section 305 of the Marine Protection, Research, and
5 Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended by
6 striking all after “**REGULATIONS**” and inserting in
7 lieu thereof “; **INTERNATIONAL NEGOTIA-**
8 **TIONS AND COOPERATION.**”.

9 **SEC. 2106. PROHIBITED ACTIVITIES.**

10 Section 306 of the Marine Protection, Research, and
11 Sanctuaries Act of 1972 (16 U.S.C. 1436) is amended to
12 read as follows:

13 **“SEC. 306. PROHIBITED ACTIVITIES.**

14 “It is unlawful to—

15 “(1) destroy, cause the loss of, or injure any
16 sanctuary resource managed under law or regula-
17 tions for that sanctuary;

18 “(2) possess, sell, deliver, carry, transport, or
19 ship by any means any sanctuary resource taken in
20 violation of this section;

21 “(3) interfere with the enforcement of this title;
22 or

23 “(4) violate any provision of this title or any
24 regulation or permit issued pursuant to this title.”.

1 **SEC. 2107. ENFORCEMENT.**

2 (a) **CIVIL PENALTIES.**—

3 (1) Section 307(c)(1) of the Marine Protection,
4 Research, and Sanctuaries Act of 1972 (16 U.S.C.
5 1437(c)(1)) is amended by striking “\$50,000” and
6 inserting “\$100,000”.

7 (2) Section 307(c)(3) of the Marine Protection,
8 Research, and Sanctuaries Act of 1972 (16 U.S.C.
9 1437(c)(3)) is amended—

10 (A) by striking “and may be proceeded”
11 and all that follows through “jurisdiction”; and

12 (B) by adding at the end the following sen-
13 tence: “Such penalty shall constitute a mari-
14 time lien on the vessel and may be recovered in
15 an action in rem in the district court of the
16 United States having jurisdiction over the ves-
17 sel.”.

18 (b) **PROCEEDS FROM CIVIL FORFEITURES.**—Section
19 307(d)(1) of the Marine Protection, Research, and Sanc-
20 tuaries Act of 1972 (16 U.S.C. 1437(d)(1)) is amended
21 by adding at the end the following new sentence: “The
22 proceeds from forfeiture actions under this subsection
23 shall constitute a separate recovery in addition to any
24 amounts recovered as civil penalties under this section or
25 as civil damages under section 312. None of those pro-
26 ceeds shall be subject to set-off.”.

1 (c) USE OF RECEIVED AMOUNTS.—Section 307(e) of
2 the Marine Protection, Research, and Sanctuaries Act of
3 1972 (16 U.S.C. 1437(e)) is amended by striking para-
4 graph (1) and inserting the following:

5 “(1) EXPENDITURES.—

6 “(A) Notwithstanding any other law,
7 amounts received by the United States as civil
8 penalties, forfeitures of property, and costs im-
9 posed under paragraph (2) shall be retained by
10 the Secretary in the manner provided for in sec-
11 tion 107(f)(1) of the Comprehensive Environ-
12 mental Response, Compensation Liability Act.

13 “(B) Amounts received under this section
14 for forfeitures and costs imposed under para-
15 graph (2) shall be used to pay the reasonable
16 and necessary costs incurred by the Secretary
17 to provide temporary storage, care, mainte-
18 nance, and disposal of any sanctuary resource
19 or other property seized in connection with a
20 violation of this title or any regulation or per-
21 mit issued under this title.

22 “(C) Amounts received under this section
23 as civil penalties and any amounts remaining
24 after the operation of subparagraph (B) shall
25 be used, in order of priority, to—

1 “(i) manage and improve the national
2 marine sanctuary with respect to which the
3 violation occurred that resulted in the pen-
4 alty or forfeiture;

5 “(ii) pay a reward to any person who
6 furnishes information leading to an assess-
7 ment of a civil penalty, or to a forfeiture
8 of property, for a violation of this title or
9 any regulation or permit issued under this
10 title; and

11 “(iii) manage and improve any other
12 national marine sanctuary.”.

13 (d) CONFORMING AMENDMENT.—Section 312(d) of
14 the Marine Protection, Research, and Sanctuaries Act of
15 1972 (16 U.S.C. 1443(d)) is amended—

16 (1) by striking “and civil penalties under sec-
17 tion 307”;

18 (2) by striking paragraph (3); and

19 (3) by redesignating paragraph (4) as para-
20 graph (3).

21 (e) ENFORCEABILITY.—Section 307 of the Marine
22 Protection, Research, and Sanctuaries Act of 1972 (16
23 U.S.C. 147) is amended by adding at the end the following
24 new subsection:

1 “(j) AREA OF APPLICATION AND ENFORCE-
 2 ABILITY.—The area of application and enforceability of
 3 this title includes the territorial sea of the United States,
 4 as described in Presidential Proclamation 5928 of Decem-
 5 ber 27, 1988, which is subject to the sovereignty of the
 6 United States, and the United States exclusive economic
 7 zone, consistent with international law.”.

8 **SEC. 2108. RESEARCH, MONITORING, AND EDUCATION.**

9 Section 309 of the Marine Protection, Research, and
 10 Sanctuaries Act of 1972 (16 U.S.C. 1440) is amended to
 11 read as follows:

12 **“SEC. 309. RESEARCH, MONITORING, AND EDUCATION.**

13 “(a) IN GENERAL.—The Secretary shall conduct re-
 14 search, monitoring, evaluation, and education programs as
 15 are necessary and reasonable to carry out the purposes
 16 and policies of this title.

17 “(b) PROMOTION AND COORDINATION OF SANC-
 18 TUARY USE.—The Secretary shall take such action as is
 19 necessary and reasonable to promote and coordinate the
 20 use of national marine sanctuaries for research, monitor-
 21 ing, and education purposes. Such action may include con-
 22 sulting with Federal agencies, States, local governments,
 23 regional agencies, interstate agencies, or other persons to
 24 promote use of one or more sanctuaries for research, mon-

itoring, and education, including coordination with the National Estuarine Research Reserve System.”.

SEC. 2109. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.

Section 311 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1442) is amended to read as follows:

“SEC. 311. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.

“(a) COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

“(b) AUTHORIZATION TO SOLICIT DONATIONS.—The Secretary may enter into such agreements with any non-profit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

“(c) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be

1 considered as a gift or bequest to or for the use of the
2 United States.

3 “(d) ACQUISITIONS.—The Secretary may acquire by
4 purchase, lease, or exchange, any land, facilities, or other
5 property necessary and appropriate to carry out the pur-
6 poses and policies of this title.”.

7 **SEC. 2110. DESTRUCTION OR LOSS OF, OR INJURY TO,**
8 **SANCTUARY RESOURCES.**

9 (a) LIABILITY FOR INTEREST.—Section 312(a)(1) of
10 the Marine Protection, Research, and Sanctuaries Act of
11 1972 (16 U.S.C. 1443(a)(1)) is amended to read as fol-
12 lows:

13 “(1) LIABILITY TO UNITED STATES.—Any per-
14 son who destroys, causes the loss of, or injures any
15 sanctuary resource is liable to the United States for
16 an amount equal to the sum of—

17 “(A) the amount of response costs and
18 damages resulting from the destruction, loss, or
19 injury; and

20 “(B) interest on that amount calculated in
21 the manner described under section 1005 of the
22 Oil Pollution Act of 1990.”.

23 (b) LIABILITY IN REM.—Section 312(a)(2) of the
24 Marine Protection, Research, and Sanctuaries Act of 1972
25 (16 U.S.C. 1443(a)(2)) is amended by adding at the end

1 the following: "The amount of that liability shall con-
2 stitute a maritime lien on the vessel and may be recovered
3 in an action in rem in any district court of the United
4 States that has jurisdiction over the vessel."

5 (c) LIMITS TO LIABILITY.—Section 312(a) of the Ma-
6 rine Protection, Research, and Sanctuaries Act of 1972
7 (16 U.S.C. 1443(a)) is amended by adding at the end the
8 following:

9 "(4) LIMITS TO LIABILITY.—Nothing in sec-
10 tions 4281–4289 of the Revised Statutes of the
11 United States or section 3 of the Act of February
12 13, 1893, shall limit the liability of any person
13 under this title."

14 (d) RESPONSE ACTIONS.—Section 312(b)(1) of the
15 Marine Protection, Research, and Sanctuaries Act of 1972
16 (16 U.S.C. 1443(b)(1)) is amended by inserting "or au-
17 thorize" after "undertake".

18 (e) USE OF RECOVERED AMOUNTS.—Section 312(d)
19 of the Marine Protection, Research, and Sanctuaries Act
20 of 1972 (16 U.S.C. 1443(d)) is amended in paragraph (3),
21 as redesignated by this Act, by inserting "the court decree
22 or settlement agreement, and" after "in accordance with".

1 **SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 313 of the Marine Protection, Research, and
3 Sanctuaries Act of 1972 (16 U.S.C. 1444) is amended to
4 read as follows:

5 **"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

6 "There are authorized to be appropriated to the Sec-
7 retary to carry out this title the following—

8 "(1) \$8,000,000 for fiscal year 1993;

9 "(2) \$12,500,000 for fiscal year 1994;

10 "(3) \$15,000,000 for fiscal year 1995; and

11 "(4) \$20,000,000 for fiscal year 1996."

12 **SEC. 2112. ADVISORY COUNCILS AND SHORT TITLE.**

13 The Marine Protection, Research, and Sanctuaries
14 Act of 1972 (16 U.S.C. 1431 et seq.) is amended by add-
15 ing at the end the following new sections:

16 **"SEC. 315. ADVISORY COUNCILS.**

17 "(a) ESTABLISHMENT.—The Secretary may establish
18 one or more advisory councils (in this section referred to
19 as an 'Advisory Council') to provide assistance to the Sec-
20 retary regarding the designation and management of na-
21 tional marine sanctuaries. The Advisory Councils shall be
22 exempt from the Federal Advisory Committee Act.

23 "(b) MEMBERSHIP.—Members of the Advisory Coun-
24 cils may be appointed from among—

1 “(1) persons employed by Federal or State
2 agencies with expertise in management of natural
3 resources;

4 “(2) members of relevant Regional Fishery
5 Management Councils established under section 302
6 of the Magnuson Fishery Conservation and Manage-
7 ment Act; and

8 “(3) representatives of local user groups, con-
9 servation and other public interest organizations,
10 scientific organizations, educational organizations, or
11 others interested in the protection and multiple use
12 management of sanctuary resources.

13 “(c) LIMITS ON MEMBERSHIP.—For sanctuaries des-
14 ignated after the date of enactment of the National Ma-
15 rine Sanctuaries Program Amendments Act of 1992, the
16 membership of Advisory Councils shall be limited to no
17 more than 15 members.

18 “(d) STAFFING AND ASSISTANCE.—The Secretary
19 may make available to an Advisory Council any staff, in-
20 formation, administrative services, or assistance the Sec-
21 retary determines are reasonably required to enable the
22 Advisory Council to carry out its functions.

23 “(e) PUBLIC PARTICIPATION AND PROCEDURAL
24 MATTERS.—The following guidelines apply with respect to
25 the conduct of business meetings of an Advisory Council:

1 “(1) Each meeting shall be open to the public,
2 and interested persons shall be permitted to present
3 oral or written statements on items on the agenda.

4 “(2) Emergency meetings may be held at the
5 call of the chairman or presiding officer.

6 “(3) Timely notice of each meeting, including
7 the time, place, and agenda of the meeting, shall be
8 published locally and in the Federal Register.

9 “(4) Minutes of each meeting shall be kept and
10 contain a summary of the attendees and matters dis-
11 cussed.

12 **“SEC. 316. SHORT TITLE.**

13 “‘This title may be cited as ‘The National Marine
14 Sanctuaries Act’.”.

15 **Subtitle B—Miscellaneous**

16 **SEC. 2201. GRAVEYARD OF THE ATLANTIC ARTIFACTS.**

17 (a) ACQUISITION OF SPACE.—Pursuant to section
18 314 of the Marine Protection, Research, and Sanctuaries
19 Act of 1972 (16 U.S.C. 1445) and consistent with the Co-
20 operative Agreement entered into in October, 1989, be-
21 tween the National Oceanic and Atmospheric Administra-
22 tion and the Mariner’s Museum of Newport News, Vir-
23 ginia, the Secretary of Commerce shall make a grant for
24 the acquisition of space in Hatteras Village, North Caro-
25 lina, for—

1 (1) the display and interpretation of artifacts
2 recovered from the area of the Atlantic Ocean adja-
3 cent to North Carolina generally known as the
4 Graveyard of the Atlantic, including artifacts recov-
5 ered from the Monitor National Marine Sanctuary;
6 and

7 (2) administration and operations of the Mon-
8 itor National Marine Sanctuary.

9 (b) AUTHORIZATION.—To carry out the responsibil-
10 ities of the Secretary of Commerce under this section,
11 there are authorized to be appropriated to the Secretary
12 of Commerce a total of \$800,000 for fiscal years 1993
13 and 1994, to remain available until expended.

14 (c) FEDERAL SHARE.—Not more than two-thirds of
15 the cost of space acquired under this section may be paid
16 with amounts provided pursuant to this section.

17 **SEC. 2202. STELLWAGEN BANK NATIONAL MARINE SANC-**
18 **TUARY.**

19 (a) DESIGNATION.—The area described in subsection
20 (b) is designated as the Stellwagen Bank National Marine
21 Sanctuary (hereafter in this section referred to as the
22 “Sanctuary”).

23 (b) AREA.—The Sanctuary shall consist of all sub-
24 merged lands and waters, including living and nonliving
25 marine resources within those waters, bounded by the area

1 described as Boundary Alternative 3 in the Draft Environ-
2 mental Impact Statement and Management Plan for the
3 Proposed Stellwagen Bank National Marine Sanctuary,
4 published by the Department of Commerce in January
5 1991, except that the western boundary shall be modified
6 as follows:

7 (1) The southwestern corner of the Sanctuary
8 shall be located at a point off Provincetown, Massa-
9 chusetts, at the following coordinates: 42 degrees, 7
10 minutes, 44.89 seconds (latitude), 70 degrees, 28
11 minutes, 15.44 seconds (longitude).

12 (2) The northwestern corner of the Sanctuary
13 shall be located at a point off Cape Ann, Massachu-
14 setts, at the following coordinates: 42 degrees, 37
15 minutes, 53.52 seconds (latitude), 70 degrees, 35
16 minutes, 52.38 seconds (longitude).

17 (c) MANAGEMENT.—The Secretary of Commerce
18 shall issue a management plan for the Sanctuary in ac-
19 cordance with section 304 of the Marine Protection, Re-
20 search, and Sanctuaries Act of 1972 (16 U.S.C. 1434),
21 as amended by this title.

22 (d) SAND AND GRAVEL MINING ACTIVITIES PROHIB-
23 ITED.—Notwithstanding any other provision of law, explo-
24 ration for, and mining of, sand and gravel and other min-
25 erals in the Sanctuary is prohibited.

1 (e) CONSULTATION.—In accordance with the proce-
2 dures established in section 304(e) of the Marine Protec-
3 tion, Research, and Sanctuaries Act of 1972, as amended
4 by this title, the appropriate Federal agencies shall consult
5 with the Secretary on proposed agency actions in the vicin-
6 ity of the Sanctuary that may affect sanctuary resources.

7 (f) AUTHORIZATION.—There are authorized to be ap-
8 propriated to the Secretary of Commerce for carrying out
9 the purposes of this section \$570,000 for fiscal year 1993
10 and \$250,000 for fiscal year 1994.

11 (g) OFFICE.—The Secretary of Commerce shall con-
12 sider establishing a satellite office for the Stellwagen Bank
13 National Marine Sanctuary in Provincetown, Gloucester,
14 or Hull, Massachusetts.

15 **SEC. 2203. MONTEREY BAY NATIONAL MARINE SANCTUARY.**

16 (a) ISSUANCE OF DESIGNATION NOTICE.—Notwith-
17 standing section 304(b) of the Marine Protection, Re-
18 search, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)),
19 the designation of the Monterey Bay National Marine
20 Sanctuary (hereafter in this section the “Sanctuary”), as
21 described in the notice of designation submitted to the
22 Congress on September 15, 1992, shall take effect on Sep-
23 tember 18, 1992.

24 (b) OIL AND GAS ACTIVITIES PROHIBITED.—Not-
25 withstanding any other provision of law, no leasing, explo-

1 ration, development, or production of oil or gas shall be
 2 permitted within the Sanctuary as provided by section
 3 944.5 of the Final Environmental Impact Statement and
 4 Management Plan for the Monterey Bay National Marine
 5 Sanctuary, published by the Department of Commerce on
 6 June 1992.

7 (c) CONSULTATION.—Section 304(c) of the Marine
 8 Protection, Research, and Sanctuaries Act of 1972, as
 9 amended by this title, shall apply to the Sanctuary as des-
 10 ignated by the Secretary of Commerce.

11 (d) VESSEL TRAFFIC.—Within 18 months after the
 12 date of enactment of this title, the Secretary of Commerce
 13 and the Secretary of Transportation, in consultation with
 14 the State of California and with adequate opportunity for
 15 public comment, shall report to Congress on measures for
 16 regulating vessel traffic in the Sanctuary if it is deter-
 17 mined that such measures are necessary to protect sanc-
 18 tuary resources.

19 **SEC. 2204. ENHANCING SUPPORT FOR NATIONAL MARINE**
 20 **SANCTUARIES.**

21 (a) IN GENERAL.—Beginning on the date of enact-
 22 ment of this title, the Secretary shall conduct a 2-year
 23 pilot project to enhance funding for designation and man-
 24 agement of national marine sanctuaries.

25 (b) PROJECT.—The project shall consist of—

1 (1) the creation, adoption, and publication in
2 the Federal Register by the Secretary of a symbol
3 for the national marine sanctuary program, or for
4 individual national marine sanctuaries;

5 (2) the solicitation of persons to be designated
6 as official sponsors of the national marine sanctuary
7 program or of individual national marine sanc-
8 tuaries;

9 (3) the designation of persons by the Secretary
10 as official sponsors of the national marine sanctuary
11 program or of individual sanctuaries;

12 (4) the authorization by the Secretary of the
13 use of any symbol published under paragraph (1) by
14 official sponsors of the national marine sanctuary
15 program or of individual national marine sanc-
16 tuaries;

17 (5) the establishment and collection by the Sec-
18 retary of fees from official sponsors for the manufac-
19 ture, reproduction or use of the symbols published
20 under paragraph (1);

21 (6) the retention of any fees assessed under
22 paragraph (5) by the Secretary in an interest-bear-
23 ing revolving fund; and

24 (7) the expenditure of any fees and any interest
25 in the fund established under paragraph (6), without

1 appropriation, by the Secretary to designate and
2 manage national marine sanctuaries.

3 (c) CONTRACT AUTHORITY.—The Secretary may con-
4 tract with any person for the creation of symbols or the
5 solicitation of official sponsors under subsection (b).

6 (d) RESTRICTIONS.—The Secretary may restrict the
7 use of the symbols published under subsection (b), and
8 the designation of official sponsors of the national marine
9 sanctuary program or of individual national marine sanc-
10 tuaries to ensure compatibility with the goals of the na-
11 tional marine sanctuary program.

12 (e) PROPERTY OF UNITED STATES.—Any symbol
13 which is adopted by the Secretary and published in the
14 Federal Register under subsection (b) is deemed to be the
15 property of the United States.

16 (f) PROHIBITED ACTIVITIES.—(1) It is unlawful for
17 any person—

18 (A) designated as an official sponsor to influ-
19 ence or seek to influence any decision by the Sec-
20 retary or any other Federal official related to the
21 designation or management of a national marine
22 sanctuary, except to the extent that a person who is
23 not so designated may do so;

24 (B) to represent himself or herself to be an offi-
25 cial sponsor absent a designation by the Secretary;

1 (C) to manufacture, reproduce, or use any sym-
2 bol adopted by the Secretary absent designation as
3 an official sponsor and without payment of a fee to
4 the Secretary; and

5 (D) to violate any regulation promulgated by
6 the Secretary under this section.

7 (2) Violation of this subsection shall be considered
8 a violation of title III of the Marine Protection, Research,
9 and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

10 (g) REPORT.—No later than 30 months after the
11 date of enactment of this Act, the Secretary shall submit
12 a report on the pilot project to Congress regarding the
13 success of the program in providing additional funds for
14 management and operation of national marine sanc-
15 tuaries.

16 (h) DEFINITIONS.—In this section—

17 (1) the term “national marine sanctuary” or
18 “national marine sanctuaries” means a national ma-
19 rine sanctuary or sanctuaries designated under title
20 III of the Marine Protection, Research, and Sanc-
21 tuaries Act of 1972 (16 U.S.C. 1431 et seq.), or by
22 other law in accordance with title III of the Marine
23 Protection, Research, and Sanctuaries Act of 1972;

24 (2) the term “official sponsor” means any per-
25 son designated by the Secretary who is authorized to

1 manufacture, reproduce, or use any symbol created,
2 adopted, and published in the Federal Register
3 under this section for a fee paid to the Secretary;
4 and

5 (3) the term "Secretary" means the Secretary
6 of Commerce.

7 **SEC. 2205. TECHNICAL CORRECTIONS RELATING TO COAST-**
8 **AL ZONE MANAGEMENT ACT OF 1972.**

9 (a) AMENDMENT OF COASTAL ZONE MANAGEMENT
10 ACT OF 1972.—Except as otherwise expressly provided,
11 whenever in this section an amendment is expressed in
12 terms of an amendment to a section or other provision,
13 the reference shall be considered to be made to a section
14 or other provision of the Coastal Zone Management Act
15 of 1972 (16 U.S.C. 1451 et seq.).

16 (b) TECHNICAL CORRECTIONS.—

17 (1) The Act is amended by—

18 (A) striking "coastal State" each place it
19 appears and inserting "coastal state";

20 (B) striking "coastal States" each place it
21 appears and inserting "coastal states"; and

22 (C) striking "coastal State's" each place it
23 appears and inserting "coastal state's".

24 (2) Section 6203(b)(1) of the Coastal Zone Act
25 Reauthorization Amendments of 1990 (104 Stat.

1 1388-301, relating to section 303(2) of the Coastal
2 Zone Management Act of 1972) is amended by
3 striking "as well as the" the first place it appears
4 and inserting "as well as to".

5 (3) Section 6204(a) of the Coastal Zone Act
6 Reauthorization Amendments of 1990 (104 Stat.
7 1388-302, relating to section 304(1) of the Coastal
8 Zone Management Act of 1972) is amended—

9 (A) in the matter preceding paragraph (1)
10 by striking "The third sentence of section" and
11 inserting "Section";

12 (B) in paragraph (1) by inserting after
13 "period at the end" the following: "of the third
14 sentence"; and

15 (C) in paragraph (2) by inserting after
16 "territorial sea.'" the following: "at the end of
17 the second sentence".

18 (4) Section 6204(b) of the Coastal Zone Act
19 Reauthorization Amendments of 1990 (104 Stat.
20 1388-302) is amended by striking "following'" and
21 inserting "following:".

22 (5) Section 304(1) (16 U.S.C. 1453(1)) is
23 amended in the second sentence—

24 (A) by striking "the outer limit of" the
25 first place it appears; and

1 (B) by striking "1705," and inserting
2 "1705),".

3 (6) Section 304(2) (16 U.S.C. 1453(2)) is
4 amended by striking "the term" and inserting "The
5 term".

6 (7) Section 304(9) (16 U.S.C. 1453(9)) is
7 amended to read as follows:

8 "(9) The term 'Fund' means the Coastal Zone
9 Management Fund established under section
10 308(b).".

11 (8) Section 306(b) (16 U.S.C. 1455(b)) is
12 amended by striking the semicolon at the end and
13 inserting a period.

14 (9) Section 6216(a) of the Coastal Zone Act
15 Reauthorization Amendments of 1990 (104 Stat.
16 1388-314, relating to section 306A(b)(1) of the
17 Coastal Zone Management Act of 1972) is amended
18 by striking "306a(b)(1)" and inserting
19 "306A(b)(1)".

20 (10) Section 306A(a)(1)(B) (16 U.S.C.
21 1455a(a)(1)(B)) is amended by striking "specified"
22 and all that follows through the end of the sentence
23 and inserting "specified in section 303(2) (A)
24 through (K)".

1 (11) Section 306A(b) (16 U.S.C. 1455a(b)) is
2 amended—

3 (A) in paragraph (2) by striking “that are
4 designated” and all that follows through the
5 end of the paragraph and inserting “that are
6 designated in the state’s management program
7 pursuant to section 306(d)(2)(C) as areas of
8 particular concern.”; and

9 (B) in paragraph (3) by—

10 (i) striking “access of” and inserting
11 “access to”; and

12 (ii) striking “in accordance with” and
13 all that follows through the end of the
14 paragraph and inserting “in accordance
15 with the planning process required under
16 section 306(d)(2)(G).”.

17 (12) Section 306A(c) (16 U.S.C. 1455a(c)) is
18 amended in paragraph (2)(C) in the matter follow-
19 ing clause (iii) by striking “shall not by” and insert-
20 ing “shall not be”.

21 (13) Section 6208(b)(3)(B) of the Coastal Zone
22 Act Reauthorization Amendments of 1990 (104
23 Stat. 1388–308, relating to section 307(c)(3)(B) of
24 the Coastal Zone Management Act of 1972) is
25 amended by inserting “with” after “complies”.

1 (14) Section 307(i) (16 U.S.C. 1456(i)) is
2 amended—

3 (A) by inserting “(1)” after “(i)”;

4 (B) in paragraph (1) (as designated by
5 subparagraph (A) of this paragraph) by striking
6 the second sentence; and

7 (C) by adding at the end the following:

8 “(2)(A) The Secretary shall collect such other fees
9 as are necessary to recover the full costs of administering
10 and processing such appeals under subsection (c).

11 “(B) If the Secretary waives the application fee under
12 paragraph (1) for an applicant, the Secretary shall waive
13 all other fees under this subsection for the applicant.

14 “(3) Fees collected under this subsection shall be de-
15 posited into the Coastal Zone Management Fund estab-
16 lished under section 308.”.

17 (15) Section 6209 of the Coastal Zone Act Re-
18 authorization Amendments of 1990 (104 Stat.
19 1388–308, relating to section 308 of the Coastal
20 Zone Management Act of 1972) is amended in the
21 matter preceding the quoted material by striking
22 “1456” and inserting “1456a”.

23 (16) Section 308(a)(1) (16 U.S.C. 1456a(a)(1))
24 is amended in the first sentence by striking “pursu-

1 ant to this Act” and inserting “pursuant to this
2 title”.

3 (17) Section 308(b)(1) (16 U.S.C. 1456a(b)(1))
4 is amended by striking “(hereinafter” and all that
5 follows through “‘Fund’)”.

6 (18) Section 308(b)(1) (16 U.S.C. 1456a(b)(1))
7 is amended by inserting after “subsection (a)” the
8 following: “and fees deposited into the Fund under
9 section 307(i)(3)”.

10 (19) The first section 313 (16 U.S.C. 1459) is
11 amended—

12 (A) in subsection (a) by striking “section
13 308” and inserting “section 308, as in effect
14 before the date of the enactment of the Coastal
15 Zone Act Reauthorization Amendments of
16 1990,”; and

17 (B) in paragraph (1) of subsection (b) by
18 striking “section 308(d)” and all that follows
19 through the end of the paragraph and inserting
20 “section 308, as in effect before the date of the
21 enactment of the Coastal Zone Act Reauthor-
22 ization Amendments of 1990; and”.

23 (20) The second section 313 (16 U.S.C. 1460,
24 relating to Walter B. Jones excellence in coastal
25 zone management awards) is amended—

1 (A) by redesignating that section as sec-
2 tion 314;

3 (B) in subsection (a) by inserting after
4 "under section 308" the following: "and other
5 amounts available to carry out this title (other
6 than amounts appropriated to carry out sec-
7 tions 305, 306, 306A, 309, 310, and 315)";
8 and

9 (C) in subsection (c) by inserting after
10 "under section 308" the following: "and other
11 amounts available to carry out this title (other
12 than amounts appropriated to carry out sec-
13 tions 305, 306, 306A, 309, 310, and 315)".

14 (21) Section 315(a) (16 U.S.C. 1461(a)) is
15 amended by striking "National Estuarine Reserve
16 Research System" and inserting "National Estua-
17 rine Research Reserve System".

18 (22) Section 315(e)(4) (16 U.S.C. 1461(e)(4))
19 is amended by striking "subsection (1)" and insert-
20 ing "paragraph (1)".

21 (23) Section 316(a) (16 U.S.C. 1462(a)) is
22 amended in clause (5) by striking "subsections (c)
23 and (d) of this section" and inserting "subsections
24 (c) and (d) of section 312".

1 (24) Section 6217(i)(3) of the Coastal Zone Act
2 Reauthorization Amendments of 1990 (104 Stat.
3 1388–319, relating to definitions under that Act) is
4 amended—

5 (A) by striking the comma; and

6 (B) by inserting “Zone” after “Coastal”.

7 **SEC. 2206. RESEARCH TO IMPROVE MANAGEMENT.**

8 (a) FLORIDA NATIONAL MARINE SANCTUARY.—Sec-
9 tion 7(a) of the Florida Keys National Marine Sanctuary
10 and Protection Act (16 U.S.C. 1433 note) is amended by
11 striking paragraph (4); by redesignating paragraphs (5)
12 through (8) as paragraphs (6) through (9), respectively;
13 and by inserting after paragraph (3) the following new
14 paragraphs:

15 “(4) identify priority needs for research and
16 amounts needed to—

17 “(A) improve management of the Sanc-
18 tuary, and in particular, the coral reef eco-
19 system within the Sanctuary; and

20 “(B) identify clearly the cause and effect
21 relationships between factors threatening the
22 health of the coral reef ecosystem in the Sanc-
23 tuary;

24 “(5) establish a long-term ecological monitoring
25 program and data base, including methods to dis-

1 seminate information on the management of the
2 coral reef ecosystem;”.

3 (b) DEADLINES NOT AFFECTED.—The amendments
4 made by subsection (a) shall not be construed to modify,
5 by implication or otherwise, the deadlines established
6 under—

7 (1) section 7(a) of the Florida Keys National
8 Marine Sanctuary and Protection Act regarding
9 completion of the comprehensive management plan
10 and final regulations; or

11 (2) section 8(a) of that Act regarding develop-
12 ment of the water quality protection program.

13 **SEC. 2207. OLYMPIC COAST NATIONAL MARINE SANC-**
14 **TUARY.**

15 No oil or gas leasing or preleasing activity shall be
16 conducted within the area designated as the Olympic
17 Coast National Marine Sanctuary in accordance with Pub-
18 lic Law 100-627.

19 **SEC. 2208. PROVASOLI-GUILLARD CENTER FOR CULTURE**
20 **OF MARINE PHYTOPLANKTON.**

21 (a) FINDINGS.—The Congress finds the following:

22 (1) The oceans cover 70 percent of the surface
23 of the Earth.

1 (2) The foundation of the food webs and fish-
2 eries productivity of the oceans rests with micro-
3 scopic plants known as phytoplankton.

4 (3) Phytoplankton serve as a vital natural re-
5 source in the oceans.

6 (4) By serving as primary agents in control of
7 the flux of atmospheric carbon dioxide to the deep
8 ocean, phytoplankton influence climate and the rate
9 of global warming.

10 (5) There is limited knowledge of the biology,
11 physiology, chemistry, and taxonomy of
12 phytoplankton, and it is of vital interest to this Na-
13 tion to improve the body of knowledge relating to
14 phytoplankton to benefit this Nation and other coun-
15 tries.

16 (6) The Provasoli-Guillard Center for the Cul-
17 ture of Marine Phytoplankton located in West
18 Boothbay Harbor, Maine, houses a phytoplankton
19 collection that contains species from each of the
20 ocean environments of the World, and is recognized
21 as the largest collection of phytoplankton in the
22 World.

23 (7) The Provasoli-Guillard Center for the Cul-
24 ture of Marine Phytoplankton is of vital interest to
25 oceanographers in this Nation and throughout the

1 World, and provides cultures of phytoplankton for
2 critical research on global issues.

3 (b) **DESIGNATION.**—In light of the findings under
4 subsection (a), the Provasoli-Guillard Center for the Cul-
5 ture of Marine Phytoplankton located in West Boothbay
6 Harbor, Maine, is designated as a National Center and
7 Facility.

8 **SEC. 2209. FLORIDA KEYS NATIONAL MARINE SANCTUARY.**

9 (a) **IMPLEMENTATION.**—Section 8 of the Florida
10 Keys National Marine Sanctuary and Protection Act (16
11 U.S.C. 1433 note) is amended by adding at the end the
12 following new subsection:

13 “(d) **IMPLEMENTATION.**—(1) The Administrator of
14 the Environmental Protection Agency and the Governor
15 of the State of Florida shall implement the program re-
16 quired by this section, in cooperation with the Secretary
17 of Commerce.

18 “(2)(A) The Regional Administrator of the Environ-
19 mental Protection Agency shall with the Governor of the
20 State of Florida establish a Steering Committee to set
21 guidance and policy for the development and implementa-
22 tion of such program. Membership shall include represent-
23 atives of the Environmental Protection Agency, the Na-
24 tional Park Service, the United States Fish and Wildlife
25 Service, the Army Corps of Engineers, the National Oce-

1 anic and Atmospheric Administration, the Florida Depart-
2 ment of Community Affairs, the Florida Department of
3 Environmental Regulation, the South Florida Water Man-
4 agement District, and the Florida Keys Aqueduct Author-
5 ity; three individuals in local government in the Florida
6 Keys; and three citizens knowledgeable about such pro-
7 gram.

8 “(B) The Steering Committee shall, on a biennial
9 basis, issue a report to Congress that—

10 “(i) summarizes the progress of the program;

11 “(ii) summarizes any modifications to the pro-
12 gram and its recommended actions and plans; and

13 “(iii) incorporates specific recommendations
14 concerning the implementation of the program.

15 “(C) The Administrator of the Environmental Pro-
16 tection Agency and the Administrator of the National Oce-
17 anic and Atmospheric Administration shall cooperate with
18 the Florida Department of Environmental Regulation to
19 establish a Technical Advisory Committee to advise the
20 Steering Committee and to assist in the design and
21 prioritization of programs for scientific research and mon-
22 itoring. The Technical Advisory Committee shall be com-
23 posed of scientists from Federal agencies, State agencies,
24 academic institutions, private non-profit organizations,
25 and knowledgeable citizens.

1 “(3)(A) The Regional Administrator of the Environ-
2 mental Protection Agency shall appoint a Florida Keys Li-
3 aison Officer. The Liaison Officer, who shall be located
4 within the State of Florida, shall have the authority and
5 staff to—

6 “(i) assist and support the implementation of
7 the program required by this section, including ad-
8 ministrative and technical support for the Steering
9 Committee and Technical Advisory Committee;

10 “(ii) assist and support local, State, and Fed-
11 eral agencies in developing and implementing spe-
12 cific action plans designed to carry out such pro-
13 gram;

14 “(iii) coordinate the actions of the Environ-
15 mental Protection Agency with other Federal agen-
16 cies, including the National Oceanic and Atmos-
17 pheric Administration and the National Park Serv-
18 ice, and State and local authorities, in developing
19 strategies to maintain, protect, and improve water
20 quality in the Florida Keys;

21 “(iv) collect and make available to the public
22 publications, and other forms of information that the
23 Steering Committee determines to be appropriate,
24 related to the water quality in the vicinity of the
25 Florida Keys; and

1 “(v) provide for public review and comment on
2 the program and implementing actions.

3 “(4)(A) There are authorized to be appropriated to
4 the Administrator of the Environmental Protection Agen-
5 cy \$2,000,000 for fiscal year 1993, \$3,000,000 for fiscal
6 year 1994, and \$4,000,000 for fiscal year 1995, for the
7 purpose of carrying out this section.

8 “(B) There are authorized to be appropriated to the
9 Secretary of Commerce \$300,000 for fiscal year 1993,
10 \$400,000 for fiscal year 1994, and \$500,000 for fiscal
11 year 1995, for the purpose of enabling the National Oce-
12 anic and Atmospheric Administration to carry out this
13 section.

14 “(C) Amounts appropriated under this paragraph
15 shall remain available until expended.

16 “(D) No more than 15 percent of the amount author-
17 ized to be appropriated under subparagraph (A) for any
18 fiscal year may be expended in that fiscal year on adminis-
19 trative expenses.”.

20 (b) TECHNICAL AMENDMENT.—Section 8(c) of the
21 Florida Keys National Marine Sanctuary and Protection
22 Act (16 U.S.C. 1433 note) is amended by striking “para-
23 graph (1)” and inserting in lieu thereof “subsection (a)”.

1 **Subtitle C—Hawaiian Islands**
2 **Humpback Whale Sanctuary**

3 **SEC. 2301. SHORT TITLE.**

4 This subtitle may be cited as the “Hawaiian Islands
5 National Marine Sanctuary Act”.

6 **SEC. 2302. FINDINGS.**

7 The Congress finds the following:

8 (1) Many of the diverse marine resources and
9 ecosystems within the Western Pacific region are of
10 national significance and importance.

11 (2) There are at present no ocean areas in the
12 Hawaiian Islands designated as national marine
13 sanctuaries or identified on the Department of Com-
14 merce’s Site Evaluation List of sites to be inves-
15 tigated as potential candidates for designation as a
16 national marine sanctuary under title III of the Ma-
17 rine Protection, Research, and Sanctuaries Act of
18 1972 (16 U.S.C. 1431 et seq.).

19 (3) The Hawaiian Islands consist of 8 major is-
20 lands and 124 minor islands, with a total land area
21 of 6,423 square miles and a general coastline of 750
22 miles.

23 (4) The marine environment adjacent to and
24 between the Hawaiian Islands is a diverse and
25 unique subtropical marine ecosystem.

1 (5) The Department of Commerce recently con-
2 cluded in its Kahoolawe Island National Marine
3 Sanctuary Feasibility Study that there is prelimi-
4 nary evidence of biological, cultural, and historical
5 resources adjacent to Kahoolawe Island to merit fur-
6 ther investigation for national marine sanctuary sta-
7 tus.

8 (6) The Department of Commerce also con-
9 cluded in its Kahoolawe Island National Marine
10 Sanctuary Feasibility Study that there are addi-
11 tional marine areas within the Hawaiian archipelago
12 which merit further consideration for national ma-
13 rine sanctuary status and that the national marine
14 sanctuary program could enhance marine resource
15 protection in Hawaii.

16 (7) The Hawaiian stock of the endangered
17 humpback whale, the largest of the three North Pa-
18 cific stocks, breed and calve within the waters of the
19 main Hawaiian Islands.

20 (8) The marine areas surrounding the main
21 Hawaiian Islands, which are essential breeding,
22 calving, and nursing areas for the endangered hump-
23 back whale, are subject to damage and loss of their
24 ecological integrity from a variety of disturbances.

1 (9) The Department of Commerce recently pro-
2 mulgated a humpback whale recovery plan which
3 sets out a series of recommended goals and actions
4 in order to increase the abundance of the endan-
5 gered humpback whale.

6 (10) An announcement of certain Hawaiian wa-
7 ters frequented by humpback whales as an active
8 candidate for marine sanctuary designation was pub-
9 lished in the Federal Register on March 17, 1982
10 (47 FR 11544).

11 (11) The existing State and Federal regulatory
12 and management programs applicable to the waters
13 of the main Hawaiian Islands are inadequate to pro-
14 vide the kind of comprehensive and coordinated con-
15 servation and management of humpback whales and
16 their habitat that is available under title III of the
17 Marine Protection, Research, and Sanctuaries Act of
18 1972 (16 U.S.C. 1431 et seq.).

19 (12) Authority is needed for comprehensive and
20 coordinated conservation and management of hump-
21 back whales and their habitat that will complement
22 existing Federal and State regulatory authorities.

23 (13) There is a need to support, promote, and
24 coordinate scientific research on, and monitoring of,

1 that portion of the marine environment essential to
2 the survival of the humpback whale.

3 (14) Public education, awareness, understand-
4 ing, appreciation, and wise use of the marine envi-
5 ronment are fundamental to the protection and con-
6 servation of the humpback whale.

7 (15) The designation, as a national marine
8 sanctuary, of the areas of the marine environment
9 adjacent to the main Hawaiian Islands which are es-
10 sential to the continued recovery of the humpback
11 whale is necessary for the preservation and protec-
12 tion of this important national marine resource.

13 (16) The marine sanctuary designated for the
14 conservation and management of humpback whales
15 could be expanded to include other marine resources
16 of national significance which are determined to
17 exist within the sanctuary.

18 **SEC. 2303. DEFINITIONS.**

19 In this subtitle, the following definitions apply:

20 (1) The term "adverse impact" means an im-
21 pact that independently or cumulatively damages, di-
22 minishes, degrades, impairs, destroys, or otherwise
23 harms.

1 (2) The term "Sanctuary" means the Hawaiian
2 Islands Humpback Whale National Marine Sanc-
3 tuary designated under section 2305.

4 (3) The term "Secretary" means the Secretary
5 of Commerce.

6 **SEC. 2304. POLICY AND PURPOSES.**

7 (a) **POLICY.**—It is the policy of the United States to
8 protect and preserve humpback whales and their habitat
9 within the Hawaiian Islands marine environment.

10 (b) **PURPOSES.**—The purposes of this subtitle are—

11 (1) to protect humpback whales and their habi-
12 tat in the area described in section 2305(b);

13 (2) to educate and interpret for the public the
14 relationship of humpback whales to the Hawaiian Is-
15 lands marine environment;

16 (3) to manage such human uses of the Sanc-
17 tuary consistent with this subtitle and title III of the
18 Marine Protection, Research, and Sanctuaries Act of
19 1972, as amended by this Act; and

20 (4) to provide for the identification of marine
21 resources and ecosystems of national significance for
22 possible inclusion in the sanctuary designated in sec-
23 tion 2305(a).

1 **SEC. 2305. DESIGNATION OF SANCTUARY.**

2 (a) DESIGNATION.—Subject to subsection (c), the
3 area described in subsection (b) is designated as the Ha-
4 waiian Islands Humpback Whale National Marine Sanc-
5 tuary under title III of the Marine Protection, Research,
6 and Sanctuaries Act of 1972 (16 U.S.C. 1451 et seq.),
7 as amended by this title.

8 (b) AREA INCLUDED.—(1) Subject to subsections (c)
9 and (d), the area referred to in subsection (a) consists of
10 the submerged lands and waters off the coast of the Ha-
11 waiian Islands seaward of the upper reaches of the wash
12 of the waves on shore—

13 (A) to the 100-fathom (183-meter) isobath ad-
14 joining the islands of Lanai, Maui, and Molokai, in-
15 cluding Penguin Bank but excluding the area within
16 3 nautical miles of the upper reaches of the waves
17 on the shore of Kahoolawe Island;

18 (B) to the deep water area of Pailolo Channel
19 from Cape Halawa, Molokai, to Nakalele Point,
20 Maui, and southward; and

21 (C) to the 100-fathom (183-meter) isobath ad-
22 joining the Kilauea National Wildlife Refuge on the
23 island of Kauai.

24 (2)(A) On January 1, 1996, the area of the marine
25 environment within 3 nautical miles of the upper reaches
26 of the wash of the waves on the shore of Kahoolawe Island

1 is designated a part of the Sanctuary, unless during the
2 3-month period immediately preceding January 1, 1996,
3 the Secretary certifies in writing to the Committee on
4 Commerce, Science, and Transportation of the Senate and
5 the Committee on Merchant Marine and Fisheries of the
6 House of Representatives that the area is not suitable for
7 inclusion in the Sanctuary. If such certification is made,
8 it shall be accompanied by a written explanation of the
9 Secretary's reasoning in support of the certification.

10 (B) After a certification of unsuitability is made
11 under subparagraph (A), the Secretary shall annually
12 make a finding concerning the suitability of the area for
13 inclusion in the Sanctuary and submit to such congres-
14 sional committees a report on that finding and the reasons
15 thereof. If the Secretary finds that the area is suitable
16 for inclusion in the Sanctuary, the area is designated a
17 part of the Sanctuary on the 30th day after such report
18 is submitted.

19 (C) Upon designation of the area under subpara-
20 graph (A) or (B), the area shall be managed as if it has
21 been designated under section 2305, and the Secretary
22 shall—

23 (i) publish a notice in the Federal Register an-
24 nouncing the designation and identifying the area;
25 and

1 (ii) issue such regulations for the area as are
2 necessary to fulfill the Secretary's responsibilities
3 under this subtitle and title III of the Marine Pro-
4 tection, Research, and Sanctuaries Act of 1972 (16
5 U.S.C. 1431 et seq.).

6 (3) The Secretary shall generally identify and depict
7 the Sanctuary on National Oceanic and Atmospheric Ad-
8 ministration charts. Those charts shall be maintained on
9 file and kept available for public examination during regu-
10 lar business hours at the Office of Ocean and Coastal Re-
11 source Management of the National Oceanic and Atmos-
12 pheric Administration. The Secretary shall update the
13 charts to reflect any boundary modification under sub-
14 section (d), and any additional designation under para-
15 graph (2) of this subsection.

16 (c) EFFECT OF OBJECTION BY GOVERNOR.—(1) If
17 within 45 days after the date of enactment of this title
18 the Governor of Hawaii certifies to the Secretary that the
19 designation (including the prospective additional designa-
20 tion under subsection (b)(2) of the area within 3 nautical
21 miles of Kahoolawe Island) is unacceptable, the designa-
22 tion shall not take effect in the area of the Sanctuary lying
23 within the seaward boundary of the State of Hawaii.

24 (2) If within 45 days after the date of issuance of
25 the comprehensive management plan and implementing

1 regulations under section 2306 the Governor of Hawaii
2 certifies to the Secretary that the management plan, any
3 implementing regulation, or any term of the plan or regu-
4 lations is unacceptable, the management plan, regulation,
5 or term, respectively, shall not take effect in the area of
6 the Sanctuary lying within the seaward boundary of the
7 State of Hawaii.

8 (3) If the Secretary considers that an action taken
9 under paragraph (1) or (2) will affect the Sanctuary in
10 a manner that the goals and objectives of this subtitle can-
11 not be fulfilled, the Secretary may terminate the entire
12 designation under subsection (a). At least 30 days prior
13 to such termination, the Secretary shall submit written no-
14 tification of the proposed termination to the Committee
15 on Commerce, Science, and Transportation of the Senate
16 and the Committee on Merchant Marine and Fisheries of
17 the House of Representatives.

18 (d) BOUNDARY MODIFICATIONS.—No later than the
19 date of issuance of the draft environmental impact state-
20 ment for the Sanctuary under section 304(a)(1)(C)(vii) of
21 the Marine Protection, Research, and Sanctuaries Act of
22 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), the Secretary, in
23 consultation with the Governor of Hawaii, if appropriate,
24 may make modifications to the boundaries of the Sanc-
25 tuary as necessary to fulfill the purposes of this subtitle.

1 The Secretary shall submit to the Committee on Com-
2 merce, Science, and Transportation of the Senate and the
3 Committee on Merchant Marine and Fisheries of the
4 House of Representatives a written notification of such
5 modifications.

6 **SEC. 2306. COMPREHENSIVE MANAGEMENT PLAN.**

7 (a) PREPARATION OF PLAN.—The Secretary, in con-
8 sultation with interested persons and appropriate Federal,
9 State, and local government authorities, shall develop and
10 issue not later than 18 months after the date of enactment
11 of this title a comprehensive management plan and imple-
12 menting regulations to achieve the policy and purposes of
13 this subtitle. In developing the plan and regulations, the
14 Secretary shall follow the procedures specified in sections
15 303 and 304 of the Marine Protection, Research, and
16 Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434), as
17 amended by this title. Such comprehensive management
18 plan shall—

19 (1) facilitate all public and private uses of the
20 Sanctuary (including uses of Hawaiian natives cus-
21 tomarily and traditionally exercised for subsistence,
22 cultural, and religious purposes) consistent with the
23 primary objective of the protection of humpback
24 whales and their habitat;

1 (2) set forth the allocation of Federal and State
2 enforcement responsibilities, as jointly agreed by the
3 Secretary and the State of Hawaii;

4 (3) identify research needs and establish a long-
5 term ecological monitoring program with respect to
6 humpback whales and their habitat;

7 (4) identify alternative sources of funding need-
8 ed to fully implement the plan's provisions and sup-
9 plement appropriations under section 2307 of this
10 subtitle and section 313 of the Marine Protection,
11 Research, and Sanctuaries Act of 1972 (16. U.S.C.
12 1444);

13 (5) ensure coordination and cooperation be-
14 tween Sanctuary managers and other Federal, State,
15 and local authorities with jurisdiction within or adja-
16 cent to the Sanctuary; and

17 (6) promote education among users of the
18 Sanctuary and the general public about conservation
19 of humpback whales, their habitat, and other marine
20 resources.

21 (b) PUBLIC PARTICIPATION.—The Secretary shall
22 provide for participation by the general public in develop-
23 ment of the comprehensive management plan or any
24 amendment thereto.

1 **SEC. 2307. AUTHORIZATION OF APPROPRIATIONS.**

2 For carrying out this subtitle, there are authorized
3 to be appropriated to the Secretary \$500,000 for fiscal
4 year 1993 and \$300,000 for fiscal year 1994. Of the
5 amounts appropriated under this section for fiscal year
6 1993—

7 (1) not less than \$50,000 shall be used by the
8 Western Pacific Regional Team to evaluate potential
9 national marine sanctuary sites for inclusion on the
10 Department of Commerce's Site Evaluation List;
11 and

12 (2) not less than \$50,000 shall be used to con-
13 tinue the investigation of biological, cultural, and
14 historical resources adjacent to Kahoolawe Island.

15 **TITLE III—MARINE MAMMAL**
16 **STRANDING**

17 **SEC. 3001. SHORT TITLE.**

18 This title may be cited as the "Marine Mammal
19 Health and Stranding Response Act".

20 **SEC. 3002. FINDINGS.**

21 The Congress finds the following:

22 (1) Current stranding network participants
23 have performed an undeniably valuable and ceaseless
24 job of responding to marine mammal strandings over
25 the last 15 years.

1 (2) Insufficient understanding of the connection
2 between marine mammal health and the physical,
3 chemical, and biological parameters of their environ-
4 ment prevents an adequate understanding of the
5 causes of marine mammal unusual mortality events.

6 (3) An accurate assessment to marine mammal
7 health, health trends in marine mammal populations
8 in the wild, and causes of marine mammal unusual
9 mortality events cannot be made without adequate
10 reference data on marine mammals and the environ-
11 ment in which they live.

12 (4) A systematic assessment of the sources,
13 presence, levels, and effects of potentially harmful
14 contaminants on marine mammals would provide a
15 better understanding of some of the causes of ma-
16 rine mammal unusual mortality events and may
17 serve as an indicator of the general health of our
18 coastal and marine environments.

19 (5) Responses to marine mammal unusual mor-
20 tality events are often uncoordinated, due to the lack
21 of sufficient contingency planning.

22 (6) Standardized methods for the reporting of
23 dying, dead, or otherwise incapacitated marine mam-
24 mals in the wild would greatly assist in the deter-
25 mination of the causes of marine mammal unusual

1 mortality events and enhance general knowledge of
2 marine mammal species.

3 (7) A formal system for collection, preparation,
4 and archiving of, and providing access to, marine
5 mammal tissues will enhance efforts to investigate
6 the health of marine mammals and health trends of
7 marine mammal populations, and to develop ref-
8 erence data.

9 (8) Information on marine mammals, including
10 results of analyses of marine mammal tissues,
11 should be broadly available to the scientific commu-
12 nity, including stranding network participants,
13 through a marine mammal data base.

14 **SEC. 3003. MARINE MAMMAL HEALTH AND STRANDING RE-**
15 **SPONSE PROGRAM.**

16 (a) IN GENERAL.—The Marine Mammal Protection
17 Act of 1972 (16 U.S.C. 1361 et seq.) is amended by add-
18 ing at the end the following new title:

19 **“TITLE III—MARINE MAMMAL**
20 **HEALTH AND STRANDING RE-**
21 **SPONSE**

22 **“SEC. 301. ESTABLISHMENT OF PROGRAM.**

23 “(a) ESTABLISHMENT.—The Secretary shall, in con-
24 sultation with the Secretary of the Interior, the Marine
25 Mammal Commission, and individuals with knowledge and

1 experience in marine science, marine mammal science, ma-
2 rine mammal veterinary and husbandry practices, and ma-
3 rine conservation, including stranding network partici-
4 pants, establish a program to be known as the 'Marine
5 Mammal Health and Stranding Response Program'.

6 “(b) PURPOSES.—The purposes of the Program shall
7 be to—

8 “(1) facilitate the collection and dissemination
9 of reference data on the health of marine mammals
10 and health trends of marine mammal populations in
11 the wild;

12 “(2) correlate the health of marine mammals
13 and marine mammal populations, in the wild, with
14 available data on physical, chemical, and biological
15 environmental parameters; and

16 “(3) coordinate effective responses to unusual
17 mortality events by establishing a process in the De-
18 partment of Commerce in accordance with section
19 304.

20 **“SEC. 302. DETERMINATION; DATA COLLECTION AND DIS-**
21 **SEMINATION.**

22 “(a) DETERMINATION FOR RELEASE.—The Sec-
23 retary shall, in consultation with the Secretary of the Inte-
24 rior, the Marine Mammal Commission, and individuals
25 with knowledge and experience in marine science, marine

1 mammal science, marine mammal veterinary and hus-
2 bandry practices, and marine conservation, including
3 stranding network participants, develop objective criteria,
4 after an opportunity for public review and comment, to
5 provide guidance for determining at what point a rehabili-
6 tated marine mammal is releasable to the wild.

7 “(b) COLLECTION.—The Secretary shall, in consulta-
8 tion with the Secretary of the Interior, collect and update,
9 periodically, existing information on—

10 “(1) procedures and practices for—

11 “(A) rescuing and rehabilitating stranded
12 marine mammals, including criteria used by
13 stranding network participants, on a species-by-
14 species basis, for determining at what point a
15 marine mammal undergoing rescue and reha-
16 bilitation is returnable to the wild; and

17 “(B) collecting, preserving, labeling, and
18 transporting marine mammal tissues for phys-
19 ical, chemical, and biological analyses;

20 “(2) appropriate scientific literature on marine
21 mammal health, disease, and rehabilitation;

22 “(3) strandings, which the Secretary shall com-
23 pile and analyze, by region, to monitor species, num-
24 bers, conditions, and causes of illnesses and deaths
25 of stranded marine mammals; and

1 “(4) other life history and reference level data,
2 including marine mammal tissue analyses, that
3 would allow comparison of the causes of illness and
4 deaths in stranded marine mammals with physical,
5 chemical, and biological environmental parameters.

6 “(c) AVAILABILITY.—The Secretary shall make infor-
7 mation collected under this section available to stranding
8 network participants and other qualified scientists.

9 **“SEC. 303. STRANDING RESPONSE AGREEMENTS.**

10 “(a) IN GENERAL.—The Secretary may enter into an
11 agreement under section 112(c) with any person to take
12 marine mammals under section 109(h)(1) in response to
13 a stranding.

14 “(b) REQUIRED PROVISION.—An agreement author-
15 ized by subsection (a) shall—

16 “(1) specify each person who is authorized to
17 perform activities under the agreement; and

18 “(2) specify any terms and conditions under
19 which a person so specified may delegate that au-
20 thority to another person.

21 “(c) REVIEW.—The Secretary shall periodically re-
22 view agreements under section 112(c) that are entered
23 into pursuant to this title, for performance adequacy and
24 effectiveness.

1 **"SEC. 304. UNUSUAL MORTALITY EVENT RESPONSE.**

2 “(a) RESPONSE.—

3 “(1) WORKING GROUP.—

4 “(A) The Secretary, acting through the Of-
5 fice, shall establish, in consultation with the
6 Secretary of the Interior, a marine mammal un-
7 usual mortality event working group, consisting
8 of individuals with knowledge and experience in
9 marine science, marine mammal science, marine
10 mammal veterinary and husbandry practices,
11 marine conservation, and medical science, to
12 provide guidance to the Secretary and the Sec-
13 retary of the Interior for—

14 “(i) determining whether an unusual
15 mortality event is occurring;

16 “(ii) determining, after an unusual
17 mortality event has begun, if response ac-
18 tions with respect to that event are no
19 longer necessary; and

20 “(iii) developing the contingency plan
21 in accordance with subsection (b), to assist
22 the Secretary in responding to unusual
23 mortality events.

24 “(B) The Federal Advisory Committee Act
25 (5 App. U.S.C.) shall not apply to the marine

1 mammal unusual mortality event working group
2 established under this paragraph.

3 “(2) RESPONSE TIMING.—The Secretary, in
4 consultation with the Secretary of the Interior, shall
5 to the extent necessary and practicable—

6 “(A) within 24 hours after receiving notifi-
7 cation from a stranding network participant
8 that an unusual mortality event might be occur-
9 ring, contact as many members as is possible of
10 the unusual mortality event working group for
11 guidance; and

12 “(B) within 48 hours after receiving such
13 notification—

14 “(i) make a determination as to
15 whether an unusual mortality event is oc-
16 curring;

17 “(ii) inform the stranding network
18 participant of that determination; and

19 “(iii) if the Secretary has determined
20 an unusual mortality event is occurring,
21 designate an Onsite Coordinator for the
22 event, in accordance with subsection (c).

23 “(b) CONTINGENCY PLAN.—

24 “(1) IN GENERAL.—The Secretary shall, in con-
25 sultation with the Secretary of the Interior and the

1 unusual mortality event working group, and after an
2 opportunity for public review and comment, issue a
3 detailed contingency plan for responding to any un-
4 usual mortality event.

5 “(2) CONTENTS.—The contingency plan re-
6 quired under this subsection shall include—

7 “(A) a list of persons, including stranding
8 network participants, at a regional, State, and
9 local level, who can assist the Secretary in im-
10 plementing a coordinated and effective response
11 to an unusual mortality event;

12 “(B) the types of marine mammal tissues
13 and analyses necessary to assist in diagnosing
14 causes of unusual mortality events;

15 “(C) training, mobilization, and utilization
16 procedures for available personnel, facilities,
17 and other resources necessary to conduct a
18 rapid and effective response to unusual mortal-
19 ity events; and

20 “(D) such requirements as are necessary
21 to—

22 “(i) minimize death of marine mam-
23 mals in the wild and provide appropriate
24 care of marine mammals during an un-
25 usual mortality event;

1 “(ii) assist in identifying the cause or
2 causes of an unusual mortality event;

3 “(iii) determine the effects of an un-
4 usual mortality event on the size estimates
5 of the affected populations of marine mam-
6 mals; and

7 “(iv) identify any roles played in an
8 unusual mortality event by physical, chemi-
9 cal, and biological factors, including con-
10 taminants.

11 “(c) ONSITE COORDINATORS.—

12 “(1) DESIGNATION.—

13 “(A) The Secretary shall, in consultation
14 with the Secretary of the Interior, designate one
15 or more Onsite Coordinators for an unusual
16 mortality event, who shall make immediate rec-
17 ommendations to the stranding network partici-
18 pants on how to proceed with response activi-
19 ties.

20 “(B) An Onsite Coordinator so designated
21 shall be one or more appropriate Regional Di-
22 rectors of the National Marine Fisheries Service
23 or the United States Fish and Wildlife Service,
24 or their designees.

-1 “(C) If, because of the wide geographic
2 distribution, multiple species of marine mam-
3 mals involved, or magnitude of an unusual mor-
4 tality event, more than one Onsite Coordinator
5 is designated, the Secretary shall, in consulta-
6 tion with the Secretary of the Interior, des-
7 ignate which of the Onsite Coordinators shall
8 have primary responsibility with respect to the
9 event.

10 “(2) FUNCTIONS.—

11 “(A) An Onsite Coordinator designated
12 under this subsection shall coordinate and di-
13 rect the activities of all persons responding to
14 an unusual mortality event in accordance with
15 the contingency plan issued under subsection
16 (b), except that—

17 “(i) with respect to any matter that is
18 not covered by the contingency plan, an
19 Onsite Coordinator shall use his or her
20 best professional judgment; and

21 “(ii) the contingency plan may be
22 temporarily modified by an Onsite Coordi-
23 nator, consulting as expeditiously as pos-
24 sible with the Secretary, the Secretary of

1 the Interior, and the unusual mortality
2 event working group.

3 “(B) An Onsite Coordinator may delegate
4 to any qualified person authority to act as an
5 Onsite Coordinator under this title.

6 **“SEC. 305. UNUSUAL MORTALITY EVENT ACTIVITY FUND-**
7 **ING.**

8 “(a) ESTABLISHMENT OF FUND.—There is estab-
9 lished in the Treasury a fund to be known as the ‘Marine
10 Mammal Unusual Mortality Event Fund’, which shall con-
11 sist of amounts deposited into the Fund under subsection
12 (c).

13 “(b) USES.—

14 “(1) IN GENERAL.—Amounts in the Fund—

15 “(A) shall be available only for use by the
16 Secretary, in consultation with the Secretary of
17 the Interior—

18 “(i) to compensate persons for special
19 costs incurred in acting in accordance with
20 the contingency plan issued under section
21 304(b) or under the direction of an Onsite
22 Coordinator for an unusual mortality
23 event; and

24 “(ii) for reimbursing any stranding
25 network participant for costs incurred in

1 preparing and transporting tissues col-
2 lected with respect to an unusual mortality
3 event for the Tissue Bank; and

4 “(B) shall remain available until expended.

5 “(2) PENDING CLAIMS.—If sufficient amounts
6 are not available in the Fund to satisfy any author-
7 ized pending claim, such claim shall remain pending
8 until such time as sufficient amounts are available.
9 All authorized pending claims shall be satisfied in
10 the order received.

11 “(c) DEPOSITS INTO THE FUND.—There shall be de-
12 posited into the Fund—

13 “(1) amounts appropriated to the Fund;

14 “(2) other amounts appropriated to the Sec-
15 retary for use with respect to unusual mortality
16 events; and

17 “(3) amounts received by the United States in
18 the form of gifts, devises, and bequests under sub-
19 section (d).

20 “(d) ACCEPTANCE OF DONATIONS.—For purposes of
21 carrying out this title, the Secretary may accept, solicit,
22 and use the services of volunteers, and may accept, solicit,
23 receive, hold, administer, and use gifts, devices, and be-
24 quests.

1 **“SEC. 306. LIABILITY.**

2 “(a) IN GENERAL.—A person who is authorized to
3 respond to a stranding pursuant to an agreement entered
4 into under section 112(c) is deemed to be an employee
5 of the government for purposes of chapter 171 of title 28,
6 United States Code, with respect to actions of the person
7 that are—

8 “(1) in accordance with the agreement; and

9 “(2) in the case of an unusual mortality event,
10 in accordance with—

11 “(A) the contingency plan issued under
12 section 304(b);

13 “(B) the instructions of an Onsite Coordi-
14 nator designated under section 304(c); or

15 “(C) the best professional judgment of an
16 Onsite Coordinator, in the case of any matter
17 that is not covered by the contingency plan.

18 “(b) LIMITATION.—Subsection (a) does not apply to
19 actions of a person described in that subsection that are
20 grossly negligent or that constitute willful misconduct.

21 **“SEC. 307. NATIONAL MARINE MAMMAL TISSUE BANK AND**
22 **TISSUE ANALYSIS.**

23 “(a) TISSUE BANK.—

24 “(1) IN GENERAL.—The Secretary shall make
25 provision for the storage, preparation, examination,
26 and archiving of marine mammal tissues. Tissues

1 archived pursuant to this subsection shall be known
2 as the 'National Marine Mammal Tissue Bank'.

3 “(2) GUIDANCE FOR MARINE MAMMAL TISSUE
4 COLLECTION, PREPARATION, AND ARCHIVING.—The
5 Secretary shall, in consultation with individuals with
6 knowledge and expertise in marine science, marine
7 mammal science, marine mammal veterinary and
8 husbandry practices, and marine conservation, issue
9 guidance, after an opportunity for public review and
10 comment, for marine mammal tissue collection,
11 preparation, archiving, and quality control proce-
12 dures, regarding—

13 “(A) appropriate and uniform methods and
14 standards for those activities to provide con-
15 fidence in marine mammal tissue samples used
16 for research; and

17 “(B) documentation of procedures used for
18 collecting, preparing, and archiving those sam-
19 ples.

20 “(3) SOURCE OF TISSUE.—In addition to tis-
21 sues taken during marine mammal unusual mortal-
22 ity events, the Tissue Bank shall incorporate tissue
23 samples taken from other sources in the wild,
24 including—

1 “(A) samples from marine mammals taken
2 incidental to commercial fishing operations;

3 “(B) samples from marine mammals taken
4 for subsistence purposes;

5 “(C) biopsy samples; and

6 “(D) any other samples properly collected.

7 “(b) TISSUE ANALYSIS.—The Secretary shall, in con-
8 sultation with the Marine Mammal Commission, the Sec-
9 retary of the Interior, and individuals with knowledge and
10 experience in marine science, marine mammal science, ma-
11 rine mammal veterinary and husbandry practices, and ma-
12 rine conservation, issue guidance, after an opportunity for
13 public review and comment, for analyzing tissue samples
14 (by use of the most effective and advanced diagnostic tech-
15 nologies and tools practicable) as a means to monitor and
16 measure overall health trends in representative species or
17 populations of marine mammals, including—

18 “(1) the levels of, and if possible, the effects of,
19 potentially harmful contaminants; and

20 “(2) the frequency of, and if possible, the
21 causes and effects of abnormal lesions or anomalies.

22 “(c) DATA BASE.—

23 “(1) IN GENERAL.—The Secretary shall main-
24 tain a central data base which provides an effective
25 means for tracking and accessing data on marine

1 mammals, including relevant data on marine mam-
2 mal tissues collected for and maintained in the Tis-
3 sue Bank.

4 “(2) CONTENTS.—The data base established
5 under this subsection shall include—

6 “(A) reference data on the health of ma-
7 rine mammals and populations of marine mam-
8 mals; and

9 “(B) data on species of marine mammals
10 that are subject to unusual mortality events.

11 “(d) ACCESS.—The Secretary shall, in consultation
12 with the Secretary of the Interior, establish criteria, after
13 an opportunity for public review and comment, for access
14 to—

15 “(1) marine mammal tissues in the Tissue
16 Bank;

17 “(2) analyses conducted pursuant to subsection
18 (b); and

19 “(3) marine mammal data in the data base
20 maintained under subsection (c);

21 which provide for appropriate uses of the tissues, analyses,
22 and data by qualified scientists, including stranding net-
23 work participants.

24 **“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

25 “There is authorized to be appropriated—

1 “(1) to the Secretary for carrying out this title
2 (other than sections 305 and 307) \$250,000 for
3 each of fiscal years 1993 and 1994;

4 “(2) to the Secretary for carrying out section
5 307, \$250,000 for each of fiscal years 1993 and
6 1994; and

7 “(3) to the Fund, \$500,000 for fiscal year
8 1993.

9 **“SEC. 309. DEFINITIONS.**

10 “In this title, the following definitions apply:

11 “(1) The term ‘Fund’ means the Marine Mam-
12 mal Unusual Mortality Event Fund established by
13 section 305(a).

14 “(2) The term ‘Office’ means the Office of Pro-
15 tected Resources, in the National Marine Fisheries
16 Service.

17 “(3) The term ‘stranding’ means an event in
18 the wild in which—

19 “(A) a marine mammal is dead and is—

20 “(i) on a beach or shore of the United
21 States; or

22 “(ii) in waters under the jurisdiction
23 of the United States (including any navi-
24 gable waters); or

25 “(B) a marine mammal is alive and is—

1 “(i) on a beach or shore of the United
2 States and unable to return to the water;

3 “(ii) on a beach or shore of the
4 United States and, although able to return
5 to the water, is in need of apparent medi-
6 cal attention; or

7 “(iii) in the waters under the jurisdic-
8 tion of the United States (including any
9 navigable waters), but is unable to return
10 to its natural habitat under its own power
11 or without assistance.

12 “(4) The term ‘stranding network participant’
13 means a person who is authorized by an agreement
14 under section 112(c) to take marine mammals as de-
15 scribed in section 109(h)(1) in response to a strand-
16 ing.

17 “(5) The term ‘Tissue Bank’ means the Na-
18 tional Marine Tissue Bank provided for under sec-
19 tion 307(a).

20 “(6) The term ‘unusual mortality event’ means
21 a stranding that—

22 “(A) is unexpected;

23 “(B) involves a significant die-off of any
24 marine mammal population; and

25 “(C) demands immediate response.”.

1 (b) IMPLEMENTATION.—The Secretary of Commerce
2 shall—

3 (1) in accordance with section 302 (a) and (b)
4 of the Marine Mammal Protection Act of 1972, as
5 amended by this Act, and not later than 24 months
6 after the date of enactment of this Act—

7 (A) develop and implement objective cri-
8 teria to determine at what point a marine mam-
9 mal undergoing rehabilitation is returnable to
10 the wild; and

11 (B) collect and make available information
12 on marine mammal health and health trends;
13 and

14 (2) in accordance with section 304(b) of the
15 Marine Mammal Protection Act of 1972, as amend-
16 ed by this Act, issue a detailed contingency plan for
17 responding to any unusual mortality event—

18 (A) in proposed form by not later than 18
19 months after the date of enactment of this Act;
20 and

21 (B) in final form by not later than 24
22 months after the date of enactment of this Act.

23 **SEC. 3004. CONFORMING AMENDMENTS.**

24 (a) CROSS REFERENCES.—The Marine Mammal Pro-
25 tection Act of 1972 is amended—

1 (1) in section 102(a) (16 U.S.C. 1372(a)) by
 2 inserting "or title III" after "this title" the first
 3 place it appears;

4 (2) in section 109(h)(1) (16 U.S.C. 1379(h)(1))
 5 by inserting "or title III" after "this title"; and

6 (3) in section 112(c) (16 U.S.C. 1382(c)) by in-
 7 serting "or title III" after "this title".

8 (b) DEFINITION OF SECRETARY.—Section 3(11) of
 9 the Marine Mammal Protection Act of 1972 (16 U.S.C.
 10 1362(11)) is amended—

11 (1) by striking "The term" and inserting "(A)
 12 Except as provided in subparagraph (B), the term";

13 (2) by redesignating subparagraph (A) as
 14 clause (i);

15 (3) by redesignating subparagraph (B) as
 16 clause (ii); and

17 (4) by adding at the end the following new sub-
 18 paragraph:

19 "(B) in title III the term 'Secretary'
 20 means the Secretary of Commerce."

21 (c) TABLE OF CONTENTS.—The table of contents at
 22 the end of the first section of the Marine Mammal Protec-
 23 tion Act of 1972 (16 U.S.C. 1361 et seq.) is amended by
 24 adding at the end the following:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 301. Establishment of program.

"Sec. 302. Determination; data collection and dissemination.

"Sec. 303. Stranding response agreements.

"Sec. 304. Unusual mortality event response.

"Sec. 305. Unusual mortality event activity funding.

"Sec. 306. Liability.

"Sec. 307. National Marine Mammal Tissue Bank and tissue analysis.

"Sec. 308. Authorization of appropriations.

"Sec. 309. Definitions."

1 SEC. 3005. PROJECT STUDY.

2 The Secretary of the Army shall conduct studies for
3 navigation projects for Provincetown Harbor, Massachu-
4 setts, and Aunt Lydia's Cove, Chatham, Massachusetts,
5 and shall evaluate the benefits of the projects to commer-
6 cial fishermen at full manufacturing wages. After comple-
7 tion of the studies, the Secretary of the Army shall carry
8 out the projects under section 107 of the River and Har-
9 bor Act of 1960 (33 U.S.C. 577).

10 SEC. 3006. TECHNICAL CLARIFICATION.

11 Section 4283B of the Revised Statutes (46 App.
12 U.S.C. 183c) is amended in paragraph (2) by inserting
13 "any" before "court".

14 TITLE IV—NEW YORK CITY **15 ZEBRA MUSSEL PROGRAM**

16 SEC. 4001. MONITORING AND PREVENTION.

17 (a) IN GENERAL.—The Secretary of the Army in con-
18 sultation with the Administrator of the Environmental
19 Protection Agency, the Director of the United States Fish
20 and Wildlife Service, the Governor of the State of New
21 York, and the Mayor of the city of New York, shall—

1 (1) develop a prevention monitoring program
2 for zebra mussels throughout the New York City
3 water supply system;

4 (2) develop appropriate zebra mussel prevention
5 and removal technologies for the New York City
6 water supply system; and

7 (3) provide technical assistance to the State of
8 New York and the city of New York on alternative
9 design and maintenance practices for the New York
10 City water supply system in the event of zebra mus-
11 sel infestation.

12 (b) COST SHARING.—The Secretary of the Army
13 shall not initiate any monitoring, prevention, or technical
14 assistance project or program under this subsection until
15 appropriate non-Federal interests agree, by contract, to
16 contribute 25 percent of the cost for such project or pro-
17 gram during the period of such project or program.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—For the
19 purposes of carrying out this subsection, there is author-
20 ized to be appropriated to the Secretary of the Army
21 \$2,000,000 for each fiscal years 1993, 1994, 1995, 1996,
22 and 1997. Such sums shall remain available until ex-
23 pended.

1 **SEC. 4002. EXOTIC AQUATIC ORGANISMS.**

2 Section 1101(b) of the Nonindigenous Aquatic Nui-
3 sance Prevention and Control Act of 1990 (16 U.S.C.
4 4711(b)) is amended by adding at the end the following
5 new paragraph:

6 “(3) In addition to issuing regulations under
7 paragraph (1), the Secretary, in consultation with
8 the Task Force shall, not later than 24 months after
9 the date of the enactment of this paragraph, issue
10 regulations to prevent the introduction and spread of
11 aquatic nuisance species into the Great Lakes
12 through ballast water carried on vessels that, after
13 operating on the waters beyond the exclusive eco-
14 nomic zone, enter a United States port on the Hud-
15 son River north of the George Washington Bridge.”.

16 **TITLE V—COAST GUARD**
17 **AUTHORIZATION**

18 **SEC. 5001. SHORT TITLE.**

19 This title may be cited as the “Coast Guard Author-
20 ization Act of 1992”.

21 **SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.**

22 Funds are authorized to be appropriated for nec-
23 essary expenses of the Coast Guard for Fiscal Year 1993,
24 as follows:

25 (1) For the operation and maintenance of the
26 Coast Guard, \$2,603,000,000, of which— -

1 (A) \$253,100,000 shall be transferred
2 from the Department of Defense;

3 (B) \$31,876,000 shall be derived from the
4 Oil Spill Liability Trust Fund; and

5 (C) \$35,000,000 shall be expended from
6 the Boat Safety Account.

7 (2) For the acquisition, construction, rebuild-
8 ing, and improvement of aids-to-navigation, shore
9 and offshore facilities, vessels, and aircraft, includ-
10 ing equipment related thereto, \$419,300,000 to re-
11 main available until expended, of which—

12 (A) \$18,000,000 shall be transferred from
13 the Department of Defense; and

14 (B) \$38,122,000 shall be derived from the
15 Oil Spill Liability Trust Fund.

16 (3) For research, development, test, and evalua-
17 tion, \$29,900,000, to remain available until ex-
18 pended, of which \$4,000,000 shall be derived from
19 the Oil Spill Liability Trust Fund.

20 (4) For retired pay (including the payment of
21 obligations otherwise chargeable to lapsed appropria-
22 tions for this purpose), payments under the Retired
23 Serviceman's Family Protection and Survivor Bene-
24 fit Plans, and payments for medical care of retired
25 personnel and their dependents under chapter 55 of

1 title 10, United States Code, \$519,700,000, to re-
2 main available until expended.

3 (5) For alteration or removal of bridges over
4 navigable waters of the United States constituting
5 obstructions to navigation, and for personnel and
6 administrative costs associated with the Bridge Ad-
7 ministration Program, \$12,600,000, to remain avail-
8 able until expended.

9 (6) For environmental compliance and restora-
10 tion at Coast Guard facilities, \$30,500,000, to re-
11 main available until expended.

12 **SEC. 5003. AUTHORIZED LEVELS OF MILITARY STRENGTH**
13 **AND MILITARY TRAINING.**

14 (a) As of September 30, 1993, the Coast Guard is
15 authorized an end-of-year strength for active duty person-
16 nel of 39,732. The authorized strength does not include
17 members of the Ready Reserve called to active duty under
18 section 712 of title 14, United States Code.

19 (b) For Fiscal Year 1993, the Coast Guard is author-
20 ized average military training student loads as follows:

21 (1) For recruit and special training, 2,653 stu-
22 dent years.

23 (2) For flight training, 110 student years.

24 (3) For professional training in military and ci-
25 vilian institutions, 302 student years.

1 (4) For officer acquisition, 878 student years.

2 **SEC. 5004. SHORE FACILITIES IMPROVEMENTS AT GROUP**
3 **CAPE HATTERAS.**

4 Of amounts authorized to be appropriated for acqui-
5 sition, construction, rebuilding, and improvement, the Sec-
6 retary of Transportation shall expend not more than
7 \$5,500,000, in Fiscal Years 1993, 1994, 1995, 1996, and
8 1997, for shore facilities improvements within Group Cape
9 Hatteras, North Carolina.

10 **SEC. 5005. PREPOSITIONED OIL SPILL CLEANUP EQUIP-**
11 **MENT.**

12 Of the amounts authorized to be appropriated for ac-
13 quisition, construction, rebuilding, and improvement that
14 are derived from the Oil Spill Liability Trust Fund in fis-
15 cal year 1993, the Secretary of Transportation shall ex-
16 pend not more than—

17 (1) \$890,000 to acquire and preposition oil spill
18 response equipment at Houston, Texas; and

19 (2) \$1,160,000 for the enhancement of Colum-
20 bia River marine, fire, oil, and toxic spill response
21 communications, training, equipment, and program
22 administration activities conducted by the Maritime
23 Fire and Safety Association.

1 **SEC. 5006. OIL SPILL TRAINING SIMULATORS.**

2 Of the amounts authorized to be appropriated for ac-
3 quisition, construction, rebuilding, and improvement that
4 are derived from the Oil Spill Liability Trust Fund in fis-
5 cal year 1993, the Secretary of Transportation shall make
6 available not more than—

7 (1) \$1,250,000 to the Texas Center for Marine
8 Training and Safety at Galveston, Texas, for the
9 purchase of a marine oil spill management simula-
10 tor; and

11 (2) \$1,250,000 to the Massachusetts Center for
12 Marine Environmental Protection, located at Buz-
13 zards Bay, Massachusetts, for the purchase of a ma-
14 rine oil spill management simulator.

15 **SEC. 5007. EVACUATION ALLOWANCE.**

16 Section 208 of the Dire Emergency Supplemental Ap-
17 propriations Act, 1992 (Public Law 102-368) applies to
18 military personnel and civilian employees of the United
19 States Coast Guard to the same extent as that section ap-
20 plies to the Department of Defense, except that funds
21 available to the Coast Guard shall be used.

Subtitle A—Boating Safety

SEC. 5101. TREATMENT OF UNOBLIGATED ALLOCATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13104 of title 46, United States Code, is amended to read as follows:

“§ 13104. Availability of allocations

“(a)(1) Amounts allocated to a State shall be available for obligation by that State for a period of 3 years after the date of allocation.

“(2) Amounts allocated to a State that are not obligated at the end of the 3-year period referred to in paragraph (1) shall be withdrawn and allocated by the Secretary in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

“(b) Amounts available to the Secretary for State recreational boating safety programs for a fiscal year that have not been allocated at the end of the fiscal year shall be allocated among States in the next fiscal year in addition to amounts otherwise available for allocation to States for that next fiscal year.”

1 **SEC. 5102. INCREASED PENALTIES FOR OPERATING A VES-**
2 **SEL WHILE INTOXICATED.**

3 Section 2302(c)(1) of title 46, United States Code,
4 is amended by striking "\$1,000;" and inserting "\$1,000
5 for a first violation and not more than \$5,000 for a subse-
6 quent violation;".

7 **SEC. 5103. FUTURE BOATERS EDUCATION PROGRAM.**

8 Not later than 6 months after the date of enactment
9 of this Act, the Secretary of Transportation shall submit
10 to the Committee on Commerce, Science, and Transpor-
11 tation of the Senate and the Committee on Merchant Ma-
12 rine and Fisheries of the House of Representatives a plan
13 to increase the availability of voluntary safe boating edu-
14 cation to individuals 16 years of age or younger. In devel-
15 oping the plan, the Secretary shall consider using the re-
16 sources of the Coast Guard Auxiliary to provide boating
17 education to the greatest extent possible.

18 **Subtitle B—Miscellaneous**

19 **SEC. 5201. COAST GUARD BAND DIRECTOR.**

20 Section 336(d) of title 14, United States Code, is
21 amended by striking "lieutenant".

22 **SEC. 5202. RECYCLING PROGRAM.**

23 Section 641 of title 14, United States Code, is
24 amended by adding the following:

25 "(c)(1) The Commandant may—

1 “(A) provide for the sale of recyclable materials
2 that the Coast Guard holds;

3 “(B) provide for the operation of recycling pro-
4 grams at Coast Guard installations; and

5 “(C) designate Coast Guard installations that
6 have qualified recycling programs for the purposes
7 of subsection (d)(2).

8 “(2) Recyclable materials shall be sold in accordance
9 with section 203 of the Federal Property and Administra-
10 tive Services Act of 1949 (40 U.S.C. 484).

11 “(d)(1) Proceeds from the sale of recyclable materials
12 at a Coast Guard installation shall be credited to funds
13 available for operations and maintenance at that installa-
14 tion in amounts sufficient to cover operations, mainte-
15 nance, recycling equipment, and overhead costs for proc-
16 essing recyclable materials at the installation.

17 “(2) If, after funds are credited, a balance remains
18 available to a Coast Guard installation and the installation
19 has a qualified recycling program, not more than 50 per-
20 cent of that balance may be used at the installation for
21 projects for pollution abatement, energy conservation, and
22 occupational safety and health activities. The cost of the
23 project may not be greater than 50 percent of the amount
24 permissible for a minor construction project.

1 “(3) The remaining balance available to a Coast
2 Guard installation may be transferred to the Coast Guard
3 Morale, Welfare, and Recreation Program.

4 “(e) If the balance available to the Coast Guard in-
5 stallation under this section at the end of a fiscal year
6 is in excess of \$200,000, the amount of that excess shall
7 be deposited in the general fund of the Treasury as offset-
8 ting receipts of the department in which the Coast Guard
9 is operating and ascribed to Coast Guard activities.”.

10 **SEC. 5203. CONFIDENTIALITY OF MEDICAL RECORDS.**

11 (a) Title 14, United States Code is amended by in-
12 serting after section 644 the following new section:

13 **“§ 645. Confidentiality of medical quality assurance**
14 **records; qualified immunity for partici-**
15 **pants**

16 “(a) In this section—

17 “(1) ‘medical quality assurance program’ means
18 any activity carried out by or for the Coast Guard
19 to assess the quality of medical care, including ac-
20 tivities conducted by individuals, military medical or
21 dental treatment facility committees, or other review
22 bodies responsible for quality assurance, credentials,
23 infection control, patient care assessment (including
24 treatment procedures, blood, drugs, and thera-
25 peutics) medical records, health resources manage-

1 ment review and identification and prevention of
2 medical or dental incidents and risks.

3 “(2) ‘medical quality assurance record’ means
4 the proceedings, records, minutes, and reports that
5 emanate from quality assurance program activities
6 described in paragraph (1) and are produced or
7 compiled by the Coast Guard as part of a medical
8 quality assurance program.

9 “(3) ‘health care provider’ means any military
10 or civilian health care professional who, under regu-
11 lations prescribed by the Secretary, is granted clini-
12 cal practice privileges to provide health care services
13 in a military medical or dental treatment facility or
14 who is licensed or certified to perform health care
15 services by a governmental board or agency or pro-
16 fessional health care society or organization.

17 “(b) Medical quality assurance records created by or
18 for the Coast Guard as part of a medical quality assurance
19 program are confidential and privileged. The records may
20 not be disclosed to any person or entity except as provided
21 in subsection (d).

22 “(c)(1) Medical quality assurance records are not
23 subject to discovery and may not be admitted into evidence
24 in any judicial or administrative proceeding, except as pro-
25 vided in subsection (d).

1 “(2) Except as provided in this section, an individual
2 who reviews or creates medical quality assurance records
3 for the Coast Guard or who participates in any proceeding
4 that reviews or creates the records may not testify in any
5 judicial or administrative proceeding with respect to the
6 records or with respect to any finding, recommendation,
7 evaluation, opinion, or action taken by that person in con-
8 nection with the records.

9 “(d)(1) Subject to paragraph (2), a medical quality
10 assurance record may be disclosed, and an individual re-
11 ferred to in subsection (c) may testify in connection with
12 a record only as follows:

13 “(A) To a Federal executive agency or private
14 organization, if necessary to license, accredit, or
15 monitor Coast Guard health care facilities.

16 “(B) To an administrative or judicial proceed-
17 ing commenced by a present or former Coast Guard
18 or Coast Guard assigned Public Health Service
19 health care provider concerning the termination, sus-
20 pension, or limitation of clinical privileges of the
21 health care provider.

22 “(C) To a governmental board or agency or to
23 a professional health care society or organization, if
24 necessary to perform licensing, or privileging, or to
25 monitor professional standards for a health care pro-

1 vider who is or was a member or an employee of the
2 Coast Guard or the Public Health Service assigned
3 to the Coast Guard.

4 “(D) To a hospital, medical center, or other in-
5 stitution that provides health care services, if nec-
6 essary to assess the professional qualifications of
7 any health care provider who is or was a member or
8 employee of the Coast Guard or the Public Health
9 Service assigned to the Coast Guard and who has
10 applied for or been granted authority or employment
11 to provide health care services in or on behalf of the
12 institution.

13 “(E) To an officer, member, employee, or con-
14 tractor of the Coast Guard or the Public Health
15 Service assigned to the Coast Guard if for official
16 purposes.

17 “(F) To a criminal or civil law enforcement
18 agency or instrumentality charged under applicable
19 law with the protection of the public health or safe-
20 ty, if a qualified representative of the agency or in-
21 strumentality makes a written request that the
22 record or testimony be provided for a purpose au-
23 thorized by law.

24 “(G) In an administrative or judicial proceeding
25 commenced by a criminal or civil law enforcement

1 agency or instrumentality referred to in subpara-
2 graph (F), but only with respect to the subject of
3 the proceeding.

4 “(2) Except in a quality assurance action, the iden-
5 tity of any individual receiving health care services from
6 the Coast Guard or the identity of any other individual
7 associated with the agency for the purposes of a medical
8 quality assurance program that is disclosed in a medical
9 quality assurance record shall be deleted from that record
10 or document before any disclosure of the record is made
11 outside the Coast Guard. This requirement does not apply
12 to the release of information under section 552a of title
13 5.

14 “(d) Except as provided in this section, a person hav-
15 ing possession of or access to a record or testimony de-
16 scribed by this section may not disclose the contents of
17 the record or testimony.

18 “(e) Medical quality assurance records may not be
19 made available to any person under section 552 of title
20 5.

21 “(f) An individual who participates in or provides in-
22 formation to an individual that reviews or creates medical
23 quality assurance records is not civilly liable for participat-
24 ing or providing the information if the participation or
25 provision of information was in good faith based on pre-

1 vailing professional standards at the time the medical
2 quality assurance program activity took place.

3 “(g) Nothing in this section shall be construed as—

4 “(1) authority to withhold from any person ag-
5 gregate statistical information regarding the results
6 of Coast Guard medical quality assurance programs;

7 “(2) authority to withhold any medical quality
8 assurance record from a committee of either House
9 of Congress, any joint committee of Congress, or the
10 General Accounting Office if the record pertains to
11 any matter within their respective jurisdictions;

12 “(3) limiting access to the information in a
13 record created and maintained outside a medical
14 quality assurance program, including a patient’s
15 medical records, on the grounds that the information
16 was presented during meetings of a review body that
17 are part of a medical quality assurance program.

18 “(h) Except as otherwise provided in this section, an
19 individual who willfully discloses a medical quality assur-
20 ance record knowing that the record is a medical quality
21 assurance record, is liable to the United States Govern-
22 ment for a civil penalty of not more than \$3,000 in the
23 case of a first offense and not more than \$20,000 in the
24 case of a subsequent offense.”

1 “(b) The analysis for chapter 17 of title 14, United
2 States Code, is amended by adding after the item relating
3 to section 644 the following new item:

“645. Confidentiality of medical quality assurance records; qualified immunity
for participants.”.

4 **SEC. 5204. TELEPHONE INSTALLATION AND CHARGES.**

5 (a) Title 14, United States Code, is amended by add-
6 ing the following new section:

7 **“§ 669. Telephone installation and charges**

8 “Under regulations prescribed by the Secretary,
9 amounts appropriated to the Department of Transpor-
10 tation are available to install, repair, and maintain tele-
11 phone wiring in residences owned or leased by the United
12 States Government and, if necessary for national defense
13 purposes, in other private residences.”

14 (b) The analysis for chapter 17 of title 14, United
15 States Code, is amended by adding at the end the follow-
16 ing new item:

“669. Telephone Installation and Charges.”.

17 **SEC. 5205. SPECIAL PAY.**

18 (a) Section 306(a) of title 37, United States Code,
19 is amended by striking “of pay grade O-3, O-4, O-5, or
20 O-6” and inserting “of pay grade O-6 or below”, and by
21 striking the chart and inserting the following new chart:

Pay Grade	Monthly Rate
O-6	\$150

	"Pay Grade"	Monthly Rate
1	O-5	100
2	O-4 and below	50".

1 (b) Section 306(c) of title 37, United States Code,
2 is amended by striking "in pay grade O-3," and inserting
3 "in each of the pay grades O-3 and below,".

4 **SEC. 5206. AMENDMENT OF INLAND NAVIGATIONAL RULES.**

5 Section 2 of the Inland Navigational Rules Act of
6 1980 (33 U.S.C. 2001 et seq.) is amended by amending
7 Rule 1(d) (33 U.S.C. 2001(d)) to read as follows:

8 "(d) Traffic separation schemes may be established
9 for the purpose of these Rules. Vessel traffic service regu-
10 lations may be in effect in certain areas."; and

11 (2) by amending Rule 10 (33 U.S.C. 2010) to
12 read as follows:

13 "RULE 10

14 "Traffic Separation Schemes

15 "(a) This Rule applies to traffic separation schemes
16 and does not relieve any vessel of her obligation under any
17 other Rule.

18 "(b) A vessel using a traffic separation scheme
19 shall—

20 "(i) proceed in the appropriate traffic lane in
21 the general direction of traffic flow for that lane;

22 "(ii) so far as practicable keep clear of a traffic
23 separation line or separation zone; and

1 “(iii) normally join or leave a traffic lane at the
2 termination of the lane, but when joining or leaving
3 from either side shall do so at as small an angle to
4 the general direction of traffic flow as practicable.

5 “(c) A vessel shall, so far as practicable, avoid cross-
6 ing traffic lanes but if obliged to do so shall cross on a
7 heading as nearly as practicable at right angles to the gen-
8 eral direction of traffic flow.

9 “(d)(i) A vessel shall not use an inshore traffic zone
10 when she can safely use the appropriate traffic lane within
11 the adjacent traffic separation scheme. However, vessels
12 of less than 20 meters in length, sailing vessels, and ves-
13 sels engaged in fishing may use the inshore traffic zone.

14 “(ii) Notwithstanding subparagraph (d)(i), a vessel
15 may use an inshore traffic zone when en route to or from
16 a port, offshore installation or structure, pilot station, or
17 any other place situated within the inshore traffic zone,
18 or to avoid immediate danger.

19 “(e) A vessel other than a crossing vessel or a vessel
20 joining or leaving a lane shall not normally enter a separa-
21 tion zone or cross a separation line except—

22 “(i) in cases of emergency to avoid immediate
23 danger; or

24 “(ii) to engage in fishing within a separation
25 zone.

1 “(f) A vessel navigating in areas near the termi-
2 nations of traffic separation schemes shall do so with par-
3 ticular caution.

4 “(g) A vessel shall so far as practicable avoid anchor-
5 ing in a traffic separation scheme or in areas near its ter-
6 minations.

7 “(h) A vessel not using a traffic separation scheme
8 shall avoid it by as wide a margin as is practicable.

9 “(i) A vessel engaged in fishing shall not impede the
10 passage of any vessel following a traffic lane.

11 “(j) A vessel of less than 20 meters in length or a
12 sailing vessel shall not impede the safe passage of a power-
13 driven vessel following a traffic lane.

14 “(k) A vessel restricted in her ability to maneuver
15 when engaged in an operation for the maintenance of safe-
16 ty of navigation in a traffic separation scheme is exempted
17 from complying with this Rule to the extent necessary to
18 carry out the operation.

19 “(l) A vessel restricted in her ability to maneuver
20 when engaged in an operation for the laying, servicing,
21 or picking up of a submarine cable, within a traffic separa-
22 tion scheme, is exempted from complying with this Rule
23 to the extent necessary to carry out the operation.”.

1 **SEC. 5207. STATE MARITIME ACADEMY VESSEL INSPECTION**

2 **FEE RELIEF.**

3 Section 2110 of title 46, United States Code, is
4 amended by adding at the end the following.

5 “(j) The Secretary may not establish or collect a fee
6 or charge for the inspection under part B of this subtitle
7 of training vessels operated by state maritime acad-
8 emies.”.

9 **SEC. 5208. INSPECTION OF GREAT LAKES BARGES.**

10 (a) Section 2101 of title 46, United States Code, is
11 amended by inserting after paragraph (13) the following
12 new paragraph:

13 “(13a) ‘Great Lakes barge’ means a non-self-
14 propelled vessel of at least 3,500 gross tons operat-
15 ing on the Great Lakes.”

16 (b) Section 3301 of title 46, United States Code, is
17 amended by adding at the end the following new para-
18 graph:

19 “(13) Great Lakes barges.”.

20 (c) For Great Lakes barges placed in operation after
21 the date of enactment of this Act, the amendments made
22 by this section take effect on the date of enactment of
23 this Act.

24 (d)(1) For Great Lakes barges in operation on the
25 date of enactment of this Act, the amendments made by

1 this section take effect one year after the date of enact-
2 ment of this Act.

3 (2) The Secretary of Transportation may impose rea-
4 sonable interim requirements to assure safe operation of
5 the barges affected by paragraph (1).

6 **SEC. 5209. TANK VESSEL DEFINITION CLARIFICATION.**

7 (a) In this section, "offshore supply vessel", "fish
8 tender vessel", "fishing vessel", and "tank vessel" have
9 the meanings given those terms under section 2101 of title
10 46, United States Code.

11 (b) The following vessels are deemed not to be a tank
12 vessel for the purposes of any law:

13 (1) An offshore supply vessel.

14 (2) A fishing or fish tender vessel of not more
15 than 750 gross tons that transfers without charge to
16 a fishing vessel owned by the same person.

17 (c)(1) This section does not affect the authority of
18 the Secretary of Transportation under chapter 33 of title
19 46, United States Code, to regulate the operation of the
20 vessels listed in subsection (b) to ensure the safe carriage
21 of oil and hazardous substances.

22 (2) This section does not affect the requirement for
23 fish tender vessels engaged in the Aleutian trade to comply
24 with chapters 33, 45, 51, 81, and 87 of title 46, United

1 States Code, as provided in the Aleutian Trade Act of
2 1990 (Public Law 101-595).

3 (d) Current regulations governing the vessels in sub-
4 section (b) remain in effect.

5 **SEC. 5210. AUTHORITY FOR THE COAST GUARD TO INSPECT**
6 **AND WITHHOLD DOCUMENTS OF CERTAIN**
7 **FOREIGN PASSENGER VESSELS.**

8 (a) Section 3303(a) of title 46, United States Code,
9 is amended in the first sentence—

10 (1) by striking “only” immediately after “is
11 subject”; and

12 (2) by striking “the condition of the vessel’s
13 propulsion equipment and lifesaving equipment are”
14 and inserting in lieu thereof “the condition of the
15 vessel is”.

16 (b) Section 3505 of title 46, United States Code, is
17 amended by striking “or domestic vessel of more than 100
18 gross tons having berth or stateroom accommodations for
19 at least 50 passengers” and insert “vessel”.

20 **SEC. 5211. REIMBURSEMENT FOR OVERSEAS INSPECTIONS**
21 **AND EXAMINATIONS.**

22 Section 3317(b) of title 46, United States Code, is
23 amended—

24 (1) by striking “chapter” and inserting “part”;
25 and

1 (2) by inserting "or a foreign vessel" imme-
2 diately after "documented vessel".

3 **SEC. 5212. WATCHSTANDING ON CERTAIN VESSELS.**

4 Section 8104 of title 46, United States Code, is
5 amended—

6 (1) in subsection (g), by inserting "a vessel
7 used only to respond to a discharge of oil or a haz-
8 ardous substance," after "an offshore supply ves-
9 sel,"; and

10 (2) by redesignating the second subsection (n)
11 as subsection (o).

12 **SEC. 5213. DENIAL AND REVOCATION OF ENDORSEMENTS.**

13 (a) Chapter 121 of title 46, United States Code, is
14 amended—

15 (1) in section 12103(a), by striking "On" and
16 inserting "Except as provided in section 12123 of
17 this title, on";

18 (2) by amending section 12110(c) to read as
19 follows:

20 "(c) A vessel and its equipment are liable to seizure
21 by and forfeiture to the United States Government—

22 "(1) when a vessel is operated after its endorse-
23 ment has been denied or revoked under section
24 12123 of this title;

1 “(2) when a vessel is employed in a trade with-
2 out an appropriate trade endorsement; or

3 “(3) when a documented vessel with a rec-
4 reational endorsement is operated other than for
5 pleasure.”; and

6 (3) by adding the following new section:

7 **“§ 12123. Denial and revocation of endorsements**

8 “When the owner of a vessel fails to pay a civil pen-
9 alty assessed by the Secretary, the Secretary may deny
10 the issuance or renewal of an endorsement or revoke the
11 endorsement on a certificate of documentation issued
12 under this chapter.”.

13 (b) The analysis for chapter 121 of title 46, United
14 States Code, is amended by adding at the end the follow-
15 ing:

 “12123. Denial and revocation of endorsements.”.

16 **SEC. 5214. ACCEPTANCE OF EVIDENCE OF PAYMENT OF**
17 **COAST GUARD FEES.**

18 The Secretary of Transportation may not issue a ci-
19 tation for failure to pay a fee or charge established under
20 section 2110 of title 46, United States Code, to an owner
21 or operator of a recreational vessel who provides reason-
22 able evidence of prior payment of the fee or charge to a
23 Coast Guard boarding officer.

1 **SEC. 5215. SCHEDULE FOR OPERATION OF DRAWBRIDGE**
2 **OF WOODROW WILSON MEMORIAL BRIDGE.**

3 (a)(1) The Secretary of the department in which the
4 Coast Guard is operating (in this section referred to as
5 the "Secretary") shall not operate the drawbridge of the
6 Woodrow Wilson Memorial Bridge in the following periods
7 for the passage of a commercial vessel:

8 (A) Monday through Friday (except Federal
9 holidays), 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to
10 8:00 p.m.

11 (B) Saturday, Sunday, and Federal holidays,
12 2:00 p.m. to 7:00 p.m.

13 (2) The Secretary need not operate the drawbridge
14 of the Woodrow Wilson Memorial Bridge for the passage
15 of a commercial vessel under paragraph (1) unless—

16 (A) the owner or operator of the vessel provides
17 the bridge tender with an estimate of the approxi-
18 mate time of that passage at least 12 hours in ad-
19 vance; and

20 (B) the owner or operator of the vessel notifies
21 the bridge tender at least 4 hours in advance of the
22 requested time for that passage.

23 (3) Not later than 180 days after the date of enact-
24 ment of this Act, the Secretary shall issue an Advance No-
25 tice of Proposed Rulemaking to solicit comments on
26 whether there are practical ways to encourage owners and

1 operators of commercial vessels to make every reasonable
2 effort to notify the bridge tender of the time a vessel will
3 pass the Woodrow Wilson Memorial Bridge by not later
4 than 24 hours before that passage.

5 (b)(1) The Secretary shall not operate the drawbridge
6 of the Woodrow Wilson Memorial Bridge in the following
7 periods for the passage of a recreational vessel:

8 (A) Monday through Friday (except Federal
9 holidays), 5:00 a.m. to 12:00 midnight;

10 (B) Saturday, Sunday, and Federal holidays,
11 7:00 a.m. to 12:00 midnight, except as provided in
12 paragraph (2).

13 (2) Notwithstanding paragraph (1)(B), the Secretary
14 may operate the drawbridge of the Woodrow Wilson Me-
15 morial Bridge beginning at 10:00 p.m. on Saturday, Sun-
16 day, or a Federal holiday for the passage of a recreational
17 vessel, if the owner or operator of the vessel notifies the
18 Secretary of the time of that passage by not later than
19 12 hours before that time.

20 (3) This subsection shall not be construed to prohibit
21 a recreational vessel from passing the Woodrow Wilson
22 Memorial Bridge at any time at which the drawbridge is
23 being operated for the passage of a commercial vessel.

1 (c) The Secretary shall operate the drawbridge of the
2 Woodrow Wilson Memorial Bridge on signal at anytime
3 for a vessel in distress.

4 **SEC. 5216. STATION BRANT POINT BOAT HOUSE.**

5 (a)(1) The Secretary of Transportation shall convey
6 to the town of Nantucket, Massachusetts, all right, title,
7 and interest of the United States in and to the building
8 known as the Station Brant Point Boat House located at
9 Coast Guard Station Brant Point, Nantucket, Massachu-
10 setts.

11 (2) A conveyance of the building under paragraph (1)
12 shall be made—

13 (A) without the payment of consideration; and

14 (B) subject to appropriate terms and conditions
15 the Secretary considers necessary.

16 (b)(1) The Secretary shall enter into a lease of not
17 less than 20 years permitting the town of Nantucket to
18 occupy the property on which the Brant Point Boat House
19 is located, subject to appropriate terms and conditions the
20 Secretary considers necessary.

21 (2) If the Secretary determines that the property
22 leased under paragraph (1) is necessary for purposes of
23 Coast Guard, the Secretary—

24 (A) may terminate the lease without payment of
25 compensation; and

1 (B) shall provide the town of Nantucket with
2 not less than 12 months notice of the requirement
3 to vacate the site and move the Boat House to an-
4 other location.

5 **SEC. 5217. STUDY OF THE APPLICATION OF TILTROTOR**
6 **AIRCRAFT TECHNOLOGY TO COAST GUARD**
7 **MISSIONS.**

8 (a) Not later than one year after the date of enact-
9 ment of this Act, the Secretary of Transportation shall
10 submit a study to Congress on the application of the V-
11 22 Osprey tiltrotor technology to Coast Guard missions.

12 (b) In conducting the study under subsection (a), the
13 Secretary shall—

14 (1) evaluate the application of tiltrotor tech-
15 nology to Coast Guard missions including—

16 (A) search and rescue at sea; and

17 (B) the enforcement of laws of the United
18 States especially with respect to drug interdic-
19 tion;

20 (2) determine whether use of the technology in
21 the Coast Guard marine environmental protection
22 program would minimize the damage caused by oil
23 or hazardous substances spills in the waters of the
24 United States; and

1 (3) determine what effect the technology would
2 have on Coast Guard manpower and operating costs,
3 compared to those costs associated with technology
4 currently used by the Coast Guard.

5 **SEC. 5218. ENFORCEMENT AGREEMENTS.**

6 The Coast Guard and the Department of Commerce
7 shall enter into a Memorandum of Agreement regarding
8 fisheries enforcement practices and procedures that pro-
9 vide at a minimum for the opportunity, if timely re-
10 quested, to appear in person to respond to charges of vio-
11 lation of law or regulation when the opportunity for a
12 hearing is granted by statute. The Memorandum of Agree-
13 ment shall also provide that all enforcement procedures
14 shall be fair and consistently applied.

15 **SEC. 5219. AUTHORIZING PAYMENTS TO CERTAIN SUB-**
16 **CONTRACTORS.**

17 (a) Not later than 6 months after the date of enact-
18 ment of this title, the Secretary of Transportation shall
19 determine the amounts that MZP, Incorporated, owes to
20 all subcontractors that performed work or supplied mate-
21 rials under Coast Guard contract DTCG50-87-C-00096.

22 (b) Investigations or interviews conducted to deter-
23 mine amounts owed under subsection (a) shall be con-
24 ducted in Ketchikan, Alaska.

1 (c) Not later than two months after making the de-
2 terminations under subsection (a), the Secretary is au-
3 thorized to pay the subcontractors the amounts owed.

4 **SEC. 5220. SANKATY HEAD LIGHT STATION.**

5 (a)(1) The Secretary of Transportation shall convey
6 to the Nantucket Historical Association in Nantucket,
7 Massachusetts, by an appropriate means of conveyance,
8 all right, title, and interest of the United States in and
9 to property comprising the Sankaty Head Light Station.

10 (2) The Secretary may identify, describe, and deter-
11 mine the property to be conveyed pursuant to this section.

12 (b)(1) A conveyance of property pursuant to this sec-
13 tion shall be made—

14 (A) without the payment of consideration;

15 (B) subject to the condition that all or part of
16 the property may be sold and the money from the
17 sale used for the purpose of moving the Sankaty
18 Head Lighthouse to a location at which the Light-
19 house can be maintained and preserved and for its
20 maintenance and preservation in accordance with
21 paragraph (2); and

22 (C) subject to such other terms and conditions
23 as the Secretary may consider appropriate.

24 (2) In addition to any term or condition established
25 pursuant to paragraph (1), any conveyance of property

1 pursuant to this section shall be subject to the condition
2 that all right, title, and interest in the Sankaty Head
3 Lighthouse shall immediately revert to the United States
4 if the Lighthouse ceases to be maintained as a nonprofit
5 center for public benefit for the interpretation and preser-
6 vation of the material culture of the United States Coast
7 Guard and the maritime history of Nantucket, Massachu-
8 setts.

9 (3) Any conveyance of property pursuant to this sec-
10 tion shall be subject to such conditions as the Secretary
11 considers to be necessary to assure that—

12 (A) the light, antennas, sound signal, and asso-
13 ciated lighthouse equipment located on the property
14 conveyed, which are active aids to navigation, shall
15 continue to be operated and maintained by the
16 United States for as long as they are needed for this
17 purpose;

18 (B) the Nantucket Historical Association may
19 not interfere or allow interference in any manner
20 with such aids to navigation without express written
21 permission from the United States;

22 (C) there is reserved to the United States the
23 right to replace, or add any aids to navigation, or
24 make any changes to the Sankaty Head Lighthouse
25 as may be necessary for navigation purposes;

1 (D) the United States shall have the right, at
2 any time, to enter the property conveyed, or the
3 property to which the Sankaty Head Lighthouse is
4 relocated, without notice for the purpose of main-
5 taining navigation aids; and

6 (E) the United States shall have an easement
7 of access to such property for the purpose of main-
8 taining the navigational aids in use on the property.

9 (4) The Nantucket Historical Association shall not
10 have any obligation to maintain any active aid to naviga-
11 tion equipment on property conveyed pursuant to this sec-
12 tion or on property to which the Sankaty Head Lighthouse
13 may be relocated.

14 (c) The Nantucket Historical Association shall main-
15 tain the Sankaty Head Lighthouse in accordance with the
16 provisions of the National Historic Preservation Act (16
17 U.S.C. 470 et seq.) and other applicable laws.

18 (d) For purposes of this section:

19 (1) "Sankaty Head Light Station" means the
20 Coast Guard lighthouse located on the eastern shore
21 of Nantucket Island, Massachusetts, including the
22 keeper's dwelling, adjacent Coast Guard rights of
23 way, and such land as may be necessary to enable
24 the Nantucket Historical Association to use the pro-
25 ceeds from the sale of the land for the relocation,

1 maintenance and preservation of the Sankaty Head
2 Lighthouse; and

3 (2) "Sankaty Head Lighthouse" means the
4 Coast Guard lighthouse located at the Sankaty Head
5 Light Station.

6 **SEC. 5221. STUDY OF BUOY CHAIN PROCUREMENT PRAC-**
7 **TICES.**

8 (a) Not later than 6 months after the date of enact-
9 ment of this title, the Secretary of Transportation shall
10 submit a study to Congress on acquisition of Coast Guard
11 buoy chain.

12 (b) In conducting the study under subsection (a), the
13 Secretary shall consider—

14 (1) the ability of United States buoy chain
15 manufacturers to successfully compete for United
16 States Government contracts to provide buoy chain
17 to the Coast Guard; and

18 (2) the effect on the national security of United
19 States dependence on foreign sources for acquisition
20 of buoy chain.

21 **SEC. 5222. CORRECTION REGARDING CERTAIN EXEMP-**
22 **TIONS.**

23 Section 4506 of title 46, United States Code, is
24 amended by striking "4502(b)(2)" and inserting
25 "4502(b)(2)(B)".

1 **SEC. 5223. CONTRACT FOR CERTAIN SERVICES AT COAST**
2 **GUARD SUPPORT CENTER IN KODIAK, ALAS-**
3 **KA.**

4 Notwithstanding any other law, the Coast Guard is
5 authorized, pursuant to the provisions of applicable acqui-
6 sition regulations, to enter into a negotiated contract with
7 ITI, at a fair and reasonable price that reflects a fair
8 allocation of costs between Alaska ratepayers and the
9 Coast Guard, to provide Digitrex central-office-based busi-
10 ness services to the Coast Guard Support Center in Ko-
11 diak, Alaska, at Building 576. The Coast Guard shall pay
12 only for service and service enhancements received or to
13 be received by the United States at the Coast Guard Sup-
14 port Center, Kodiak, Alaska. The termination liability of
15 such contract shall be negotiated, but shall not exceed
16 \$842,047.

17 **Subtitle C—Abandoned Barges**

18 **SEC. 5301. SHORT TITLE.**

19 This subtitle may be cited as the “Abandoned Barge
20 Act of 1992”.

21 **SEC. 5302. ABANDONMENT OF BARGES.**

22 Part B of subtitle II of title 46, United States Code,
23 is amended by adding at the end the following new chap-
24 ter:

1 **“CHAPTER 47—ABANDONMENT OF**
2 **BARGES**

“Sec.

“4701. Definitions.

“4702. Abandonment of barge prohibited.

“4703. Penalty for unlawful abandonment of barge.

“4704. Removal of abandoned barges.

“4705. Liability of barge removal contractors.

3 **“§ 4701. Definitions**

4 “In this chapter—

5 “(1) ‘abandon’ means to moor, strand, wreck,
6 sink, or leave a barge of more than 100 gross tons
7 unattended for longer than forty-five days.

8 “(2) ‘barge removal contractor’ means a person
9 that enters into a contract with the United States to
10 remove an abandoned barge under this chapter.

11 “(3) ‘navigable waters of the United States’
12 means waters of the United States, including the
13 territorial sea.

14 “(4) ‘removal’ or ‘remove’ means relocation,
15 sale, scrapping, or other method of disposal.

16 **“§ 4702. Abandonment of barge prohibited**

17 “(a) An owner or operator of a barge may not aban-
18 don it on the navigable waters of the United States. A
19 barge is deemed not to be abandoned if—

20 “(1) it is located at a federally- or State-ap-
21 proved mooring area;

1 “(2) it is on private property with the permis-
2 sion of the owner of the property; or

3 “(3) the owner or operator notifies the Sec-
4 retary that the barge is not abandoned and the loca-
5 tion of the barge.”

6 **“§ 4703. Penalty for unlawful abandonment of barge**

7 “Thirty days after the notification procedures under
8 section 4704(a)(1) are completed, the Secretary may as-
9 sess a civil penalty of not more than \$1,000 for each day
10 of the violation against an owner or operator that violates
11 section 4702. A vessel with respect to which a penalty is
12 assessed under this chapter is liable in rem for the penalty.

13 **“§ 4704. Removal of abandoned barges**

14 “(a)(1) The Secretary may remove a barge that is
15 abandoned after complying with the following procedures:

16 “(A) If the identity of the owner or operator
17 can be determined, the Secretary shall notify the
18 owner or operator by certified mail—

19 “(i) that if the barge is not removed it will
20 be removed at the owner’s or operator’s ex-
21 pense; and

22 “(ii) of the penalty under section 4703.

23 “(B) If the identity of the owner or operator
24 cannot be determined, the Secretary shall publish an
25 announcement in—

1 “(i) a notice to mariners; and

2 “(ii) an official journal of the county in
3 which the barge is located

4 that if the barge is not removed it will be removed
5 at the owner’s or operator’s expense.

6 “(2) The United States, and any officer or employee
7 of the United States is not liable to an owner or operator
8 for damages resulting from removal of an abandoned
9 barge under this chapter.

10 “(b) The owner or operator of an abandoned barge
11 is liable, and an abandoned barge is liable in rem, for all
12 expenses that the United States incurs in removing an
13 abandoned barge under this chapter.

14 “(c)(1) The Secretary may, after providing notice
15 under subsection (a)(1), solicit by public advertisement
16 sealed bids for the removal of an abandoned barge.

17 “(2) After solicitation under paragraph (1) the Sec-
18 retary may award a contract. The contract—

19 “(A) may be subject to the condition that
20 the barge and all property on the barge is the
21 property of the barge removal contractor; and

22 “(B) must require the barge removal con-
23 tractor to submit to the Secretary a plan for
24 the removal.

1 “(3) Removal of an abandoned barge may begin thir-
 2 ty days after the Secretary completes the procedures
 3 under subsection (a)(1).

4 **“§ 4705. Liability of barge removal contractors**

5 “(a)(1) A barge removal contractor and its sub-
 6 contractor not liable for damages that result from actions
 7 taken or omitted to be taken in the course of removing
 8 a barge under this chapter.

9 “(2) Paragraph (1) does not apply—

10 “(A) with respect to personal injury or wrongful
 11 death; or

12 “(B) if the contractor or subcontractor is gross-
 13 ly negligent or engages in willful misconduct.”.

14 **SEC. 5303. APPLICATION TO CERTAIN BARGES.**

15 Chapter 47 of title 46, United States Code, as added
 16 by subsection (a), does not apply to a barge abandoned
 17 before June 11, 1992, if the barge was removed before
 18 the date that is 1 year after the date of enactment of this
 19 title.

20 **SEC. 5304. CLERICAL AMENDMENT.**

21 The analysis of subtitle II at the beginning of title
 22 46, United States Code, is amended by inserting after the
 23 item relating to chapter 45 the following:

“47. Abandonment of barges 4701”.

1 **SEC. 5305. NUMBERING OF BARGES.**

2 Section 12301 of title 46, United States Code, is
3 amended—

4 (1) by inserting “(a)” before “An undocu-
5 mented vessel”; and

6 (2) by adding at the end the following:

7 “(b) The Secretary shall require an undocumented
8 barge more than 100 gross tons operating on the navi-
9 gable waters of the United States to be numbered.”.

10 **Subtitle D—Honoring the Coast**
11 **Guard Women’s Reserve**

12 **SEC. 5401. FINDINGS.**

13 The Congress finds the following:

14 (1) The Congress passed legislation 50 years
15 ago establishing the Coast Guard Women’s Reserve.

16 (2) The Congress recognized both women’s
17 right to participate in the total war effort and the
18 military’s pressing need for women during World
19 War II.

20 (3) The Congress responded to women’s com-
21 mitment and dedication by creating the Coast Guard
22 Women’s Reserve as a sister service to the WACS,
23 and the Women Marines.

24 (4) The first director of the Coast Guard Wom-
25 en’s Reserve, Captain Dorothy C. Stratton, named
26 the Coast Guard Women’s Reserve SPAR, an acro-

1 nym derived from the Latin and English translations
2 of the Coast Guard motto, Semper Paratus Always
3 Ready.

4 (5) The first director recruited the best and
5 brightest women from industry, educational institu-
6 tions, and homes.

7 (6) SPARS' high level of education and experi-
8 ence greatly reduced the need for further training
9 and SPARS only needed to be taught military struc-
10 ture and Coast Guard missions and traditions.

11 (7) SPARS made history by being the first
12 women trained at a service academy.

13 (8) SPARS performed admirably as executive
14 officers, division heads, officers of the day, watch of-
15 ficers, and courts martial members.

16 (9) SPARS served our Nation as boatswain
17 mates, coxswains, gunners mates, carpenters, and
18 machinists mates.

19 (10) SPARS served with distinction in highly
20 specialized jobs during the Korean War and the
21 Vietnam Conflict.

22 (11) A group of Coast Guard Women's Re-
23 serves remained on active duty during the 1950's
24 and 1960's, primarily at Coast Guard headquarters.

1 (12) In 1950, women were integrated into the
2 Organized Reserve Training Program.

3 (13) In every phase of Coast Guard history,
4 women have served our Nation with dedication,
5 honor, and sacrifice.

6 **SEC. 5402. DESIGNATION OF SPAR ANNIVERSARY WEEK.**

7 November 17 through November 23, 1992, is des-
8 ignated as "SPAR Anniversary Week". The President is
9 authorized and requested to issue a proclamation calling
10 on the people of the United States to observe the week
11 with appropriate programs, ceremonies, and activities.

12 **Subtitle E—Merchant Marine**
13 **Provisions**

14 **SEC. 5591. COASTWISE LAWS.**

15 (a)(1) Section 1 of the Act of May 28, 1906 (46 App.
16 U.S.C. 292) is amended to read as follows:

17 **"SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.**

18 "(a) IN GENERAL.—Except as provided in subsection
19 (b), a vessel may engage in dredging in the navigable wa-
20 ters of the United States only if—

21 "(1) the vessel meets the requirements of sec-
22 tion 27 of the Merchant Marine Act, 1920 and sec-
23 tion 2 of the Shipping Act, 1916 for engaging in the
24 coastwise trade;

1 “(2) when chartered, the charterer of the vessel
2 is a citizen of the United States under section 2 of
3 the Shipping Act, 1916 for engaging in the coast-
4 wise trade; and

5 “(3) for a vessel that is at least 5 net tons, the
6 vessel is documented under chapter 121 of title 46,
7 United States Code, with a coastwise endorsement.

8 “(b) EXCEPTION.—A documented vessel with a reg-
9 istry endorsement may engage in the dredging of gold in
10 Alaska.

11 “(c) PENALTY.—When a vessel is operated in know-
12 ing violation of this section, that vessel and its equipment
13 are liable to seizure by and forfeiture to the United States
14 Government.”.

15 (2) The amendment made by paragraph (1) does not
16 apply to—

17 (A)(i) the vessel STUYVESANT, official num-
18 ber 648540;

19 (ii) any other hopper dredging vessel docu-
20 mented under chapter 121 of title 46, United States
21 Code before the effective date of this Act and char-
22 tered to Stuyvesant Dredging Company or to an en-
23 tity in which it has an ownership interest; however,
24 this exception expires on December 3, 2022 or when

1 the vessel STUYVESANT ceases to be documented
2 under chapter 121, whichever first occurs; and

3 (iii) any other non-hopper dredging vessel docu-
4 mented under chapter 121 and chartered to
5 Stuyvesant Dredging Company or to an entity in
6 which it has an ownership interest, as is necessary
7 (a) to fulfill dredging obligations under a specific
8 contract, including any extension periods; or (b) as
9 temporary replacement capacity for a vessel which
10 has become disabled but only for so long as the dis-
11 ability shall last and until the vessel is in a position
12 to fully resume dredging operations; however, this
13 exception expires on December 8, 2022 or when the
14 vessel STUYVESANT ceases to be documented
15 under chapter 121, whichever first occurs;

16 (B) the vessel COLUMBUS, official number
17 590658, except that the vessel's certificate of docu-
18 mentation shall be endorsed to prohibit the vessel
19 from engaging in the transportation of merchandise
20 (except valueless material), including dredge mate-
21 rial of value, between places within the navigable wa-
22 ters of the United States;

23 (C) a vessel that is engaged in dredged material
24 excavation if that excavation is not more than a mi-
25 nority of the total cost of the construction contract

1 in which the excavation is a single, integral part,
2 and the vessel is—

3 (i) built in the United States;

4 (ii) a non-self-propelled mechanical clam-
5 shell dredging vessel; and

6 (iii) owned or chartered by a corporation
7 that had on file with the Secretary of Transpor-
8 tation, on August 1, 1989, the certificate speci-
9 fied in section 27A of the Merchant Marine Act,
10 1920 (46 App. U.S.C. 883-1); or

11 (D) any other documented vessel engaged in
12 dredging and time chartered to an entity that, on
13 August 1, 1989, was, and has continuously re-
14 mained, the parent of a corporation that had on file
15 with the Secretary of Transportation on August 1,
16 1989, a certificate specified in section 27A of the
17 Merchant Marine Act, 1920 (46 App. U.S.C. 883-
18 1) if the vessel is—

19 (i) not engaged in a federally funded navi-
20 gation dredging project; and

21 (ii) engaged only in dredging associated
22 with, and integral to, accomplishment of that
23 parent's regular business requirements.

24 (b) Section 27 of the Merchant Marine Act, 1920 (46
25 App. U.S.C. 883) is amended by striking "merchandise"

1 the first place it appears and inserting "merchandise, in-
2 cluding merchandise owned by the United States Govern-
3 ment, a State (as defined in section 2101 of the title 46,
4 United States Code), or a subdivision of a State,".

5 (c) The Act of June 7, 1988 (Public Law 100-329;
6 102 Stat. 588), including the amendments made by that
7 Act, does not apply to a vessel—

8 (1) engaged in the transportation of valueless
9 material or valueless dredged material; and

10 (2) owned or chartered by a corporation that
11 had on file with the Secretary of Transportation on
12 August 1, 1989, the certificate specified in section
13 27A of the Merchant Marine Act, 1920 (46 App.
14 U.S.C. 883-1).

15 **SEC. 5502. TREATMENT OF CERTAIN SEIZED FISHING VES-**
16 **SELS UNDER FISHERMEN'S PROTECTIVE ACT**
17 **OF 1967.**

18 (a) Notwithstanding another law, each of the vessels
19 described in subsection (b) of this section is deemed to
20 have been covered by an agreement, beginning August 13,
21 1992, and ending September 29, 1992, with the Secretary
22 of State under section 7 of the Fishermen's Protective Act
23 of 1967 (22 U.S.C. 1977).

24 (b) The vessels referred to in subsection (a) are the
25 following:

1 (1) THE KANAOLA (United States official
2 number 923848).

3 (2) THE MANA LOA (United States official
4 number 919649).

5 (3) THE MANA OLA (United States official
6 number 902605).

7 (4) THE MANA IKI (United States official
8 number 906800).

9 **Subtitle F—Clean Vessels**

10 **SEC. 5601. SHORT TITLE.**

11 This subtitle may be cited as the “Clean Vessel Act
12 of 1992”.

13 **SEC. 5602. FINDINGS; PURPOSE.**

14 (a) FINDINGS.—The Congress finds the following:

15 (1) The discharge of untreated sewage by ves-
16 sels is prohibited under Federal law in all areas
17 within the navigable waters of the United States.

18 (2) The discharge of treated sewage by vessels
19 is prohibited under either Federal or State law in
20 many of the United States bodies of water where
21 recreational boaters operate.

22 (3) There is currently an inadequate number of
23 pumpout stations for type III marine sanitation de-
24 vices where recreational vessels normally operate.

1 (4) Sewage discharged by recreational vessels
2 because of an inadequate number of pumpout sta-
3 tions is a substantial contributor to localized deg-
4 radation of water quality in the United States.

5 (b) PURPOSE.—The purpose of this subtitle is to pro-
6 vide funds to States for the construction, renovation, oper-
7 ation, and maintenance of pumpout stations and waste re-
8 ception facilities.

9 **SEC. 5603. DETERMINATION AND PLAN REGARDING STATE**
10 **MARINE SANITATION DEVICE PUMPOUT STA-**
11 **TION NEEDS.**

12 (a) SURVEY.—Within 3 months after the notification
13 under section 5605(b), each coastal State shall conduct
14 a survey to determine—

15 (1) the number and location of all operational
16 pumpout stations and waste reception facilities at
17 public and private marinas, mooring areas, docks,
18 and other boating access facilities within the coastal
19 zone of the State; and

20 (2) the number of recreational vessels in the
21 coastal waters of the State with type III marine
22 sanitation devices or portable toilets, and the areas
23 of those coastal waters where those vessels con-
24 gregate.

1 (b) PLAN.—Within 6 months after the notification
2 under section 5605(b), and based on the survey conducted
3 under subsection (a), each coastal State shall—

4 (1) develop and submit to the Secretary of the
5 Interior a plan for any construction or renovation of
6 pumpout stations and waste reception facilities that
7 are necessary to ensure that, based on the guidance
8 issued under section 5605(a), there are pumpout
9 stations and waste reception facilities in the State
10 that are adequate and reasonably available to meet
11 the needs of recreational vessels using the coastal
12 waters of the State; and

13 (2) submit to the Secretary of the Interior with
14 that plan a list of all stations and facilities in the
15 coastal zone of the State which are operational on
16 the date of submittal.

17 (c) PLAN APPROVAL.—

18 (1) IN GENERAL.—Not later than 60 days after
19 a plan is submitted by a State under subsection (b),
20 the Secretary of the Interior shall approve or dis-
21 approve the plan, based on—

22 (A) the adequacy of the survey conducted
23 by the State under subsection (a); and

24 (B) the ability of the plan, based on the
25 guidance issued under section 5605(a), to meet

1 the construction and renovation needs of the
2 recreational vessels identified in the survey.

3 (2) NOTIFICATION OF STATE; MODIFICATION.—

4 The Secretary of the Interior shall promptly notify
5 the affected Governor of the approval or disapproval
6 of a plan. If a plan is disapproved, the Secretary of
7 the Interior shall recommend necessary modifica-
8 tions and return the plan to the affected Governor.

9 (3) RESUBMITTAL.—Not later than 60 days
10 after receiving a plan returned by the Secretary of
11 the Interior, the Governor shall make the appro-
12 priate changes and resubmit the plan.

13 (d) INDICATION OF STATIONS AND FACILITIES ON
14 NOAA CHARTS.—

15 (1) IN GENERAL.—The Under Secretary of
16 Commerce for Oceans and Atmosphere shall indi-
17 cate, on charts published by the National Oceanic
18 and Atmospheric Administration for the use of oper-
19 ators of recreational vessels, the locations of
20 pumpout stations and waste reception facilities.

21 (2) NOTIFICATION OF NOAA.—

22 (A) LISTS OF STATIONS AND FACILI-
23 TIES.—The Secretary of the Interior shall
24 transmit to the Under Secretary of Commerce
25 for Oceans and Atmosphere each list of oper-

1 ational stations and facilities submitted by a
2 State under subsection (b)(2), by not later than
3 30 days after the date of receipt of that list.

4 (B) COMPLETION OF PROJECT.—The Di-
5 rector of the United States Fish and Wildlife
6 Service shall notify the Under Secretary of the
7 location of each station or facility at which a
8 construction or renovation project is completed
9 by a State with amounts made available under
10 the Act of August 9, 1950 (16 U.S.C. 777a et
11 seq.), as amended by this subtitle, by not later
12 than 30 days after the date of notification by
13 a State of the completion of the project.

14 **SEC. 5604. FUNDING.**

15 (a) TRANSFER.—Section 4 of the Act of August 9,
16 1950 (16 U.S.C. 777c), is amended—

17 (1) by striking “So much, not to exceed 6 per
18 centum,” and all that follows through “shall appor-
19 tion the remainder of the appropriation for each fis-
20 cal year among the several States” and inserting the
21 following:

22 “(a) The Secretary of the Interior shall distribute 18
23 per centum of each annual appropriation made in accord-
24 ance with the provisions of section 3 of this Act as pro-
25 vided in the Coastal Wetlands Planning, Protection, and

1 Restoration Act (title III, Public Law 101-646). Notwith-
2 standing the provisions of section 3 of this Act, such sums
3 shall remain available to carry out such Act through fiscal
4 year 1999.

5 “(b) Of the balance of each such annual appropria-
6 tion remaining after making the distribution under sub-
7 section (a), an amount equal to \$10,000,000 for fiscal
8 year 1993, \$15,000,000 for each of fiscal years 1994 and
9 1995, and \$20,000,000 for each of fiscal years 1996, and
10 1997 shall be used as follows:

11 “(1) $\frac{1}{2}$ shall be transferred to the Secretary of
12 Transportation and be expended for State rec-
13 reational boating safety programs under section
14 13106(a)(1) of title 46, United States Code; and

15 “(2) $\frac{1}{2}$ of amounts made available under this
16 subsection in a fiscal year shall be available for two
17 years for obligation under section 5604(c) of the
18 Clean Vessel Act of 1992. The Secretary of the Inte-
19 rior may make grants for qualified projects in an
20 amount up to the amount available under this para-
21 graph. Amounts unobligated by the Secretary of the
22 Interior after 2 years shall be transferred to the Sec-
23 retary of Transportation and be expended for State
24 recreational boating safety programs under section
25 13106(a)(1) of title 46, United States Code.

1 In fiscal year 1998, an amount equal to \$20,000,000 of
2 the balance remaining after the distribution under sub-
3 section (a) shall be transferred to the Secretary of Trans-
4 portation and be expended for State recreational boating
5 safety programs under section 13106(a)(1) of title 46,
6 United States Code.

7 “(c) Of the balance of each such annual appropriation
8 remaining after the distribution and use under subsections
9 (a) and (b), respectively, so much, not to exceed 6 per
10 centum of such balance, as the Secretary of the Interior
11 may estimate to be necessary for his or her expenses in
12 the conduct of necessary investigations, administration,
13 and the execution of this Act and for aiding in the formu-
14 lation, adoption, or administration of any compact be-
15 tween 2 or more States for the conservation and manage-
16 ment of migratory fishes in marine or freshwaters, shall
17 be deducted for that purpose, and such sum is authorized
18 to be made available until the expiration of the next suc-
19 ceeding fiscal year.

20 “(d) The Secretary of the Interior, after the distribu-
21 tion, transfer, use, and deduction under subsections (a),
22 (b), and (c), respectively, shall apportion the remainder
23 of each such annual appropriation among the several
24 States”; and

1 (2) by inserting “(e)” before “So much of any
2 sum” and redesignating the last 2 sentences of that
3 section as subsection (e).

4 (b) ACCESS INCREASE.—Section 8 of the Act of Au-
5 gust 9, 1950 (16 U.S.C. 777g), is amended—

6 (1) in subsection (b)(1) by:

7 (A) striking “10 per centum” and insert-
8 ing “12½ per centum”; and

9 (B) inserting after the first sentence the
10 following: “Notwithstanding this provision,
11 States within a United States Fish and Wildlife
12 Service Administrative Region may allocate
13 more or less than 12½ per centum in a fiscal
14 year, provided that the total regional allocation
15 averages 12½ per centum over a 5 year pe-
16 riod.”;

17 (2) in subsection (b)(2) by:

18 (A) striking “fiscal year” after “succeed-
19 ing” the first time it appears and inserting
20 “four fiscal years”; and

21 (B) striking “succeeding fiscal year” the
22 second time it appears and inserting “period”;

23 (3) in subsection (c) by inserting “and out-
24 reach” in the first sentence after “education”; and

1 (4) by adding at the end the following new sub-
2 section:

3 “(d) PUMPOUT STATIONS AND WASTE RECEPTION
4 FACILITIES.—Amounts apportioned to States under sec-
5 tion 4 of this Act may be used to pay not more than 75
6 percent of the costs of constructing, renovating, operating,
7 or maintaining pumpout stations and waste reception fa-
8 cilities (as those terms are defined in the Clean Vessel Act
9 of 1992).”.

10 (c) GRANT PROGRAM.—

11 (1) MATCHING GRANTS.—The Secretary of the
12 Interior may obligate an amount not to exceed the
13 amount made available under section 4(b)(2) of the
14 Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as
15 amended by this Act), to make grants to—

16 (A) coastal States to pay not more than 75
17 percent of the cost to a coastal State of—

18 (i) conducting a survey under section
19 5603(a);

20 (ii) developing and submitting a plan
21 and accompanying list under section
22 5603(b);

23 (iii) constructing and renovating
24 pumpout stations and waste reception fa-
25 cilities; and

1 (iv) conducting a program to educate
2 recreational boaters about the problem of
3 human body waste discharges from vessels
4 and inform them of the location of
5 pumpout stations and waste reception fa-
6 cilities.

7 (B) inland States, which can demonstrate
8 to the Secretary of the Interior that there are
9 an inadequate number of pumpout stations and
10 waste reception facilities to meet the needs of
11 recreational vessels in the waters of that State,
12 to pay 75 percent of the cost of that State of—

13 (i) constructing and renovating
14 pumpout stations and waste reception fa-
15 cilities in the inland State; and

16 (ii) conducting a program to educate
17 recreational boaters about the problem of
18 human body waste discharges from vessels
19 and inform them of the location of
20 pumpout stations and waste reception fa-
21 cilities.

22 (2) PRIORITY.—In awarding grants under this
23 subsection, the Secretary of the Interior shall give
24 priority consideration to grant applications that—

1 (A) in coastal States, propose constructing
2 and renovating pumpout stations and waste re-
3 ception facilities in accordance with a coastal
4 State's plan approved under section 5603(c);

5 (B) provide for public/private partnership
6 efforts to develop and operate pumpout stations
7 and waste receptions facilities; and

8 (C) propose innovative ways to increase the
9 availability and use of pumpout stations and
10 waste reception facilities.

11 (d) **DISCLAIMER.**—Nothing in this subtitle shall be
12 interpreted to preclude a State from carrying out the pro-
13 visions of this subtitle with funds other than those de-
14 scribed in this section.

15 **SEC. 5605. GUIDANCE AND NOTIFICATION.**

16 (a) **ISSUANCE OF GUIDANCE.**—Not later 3 months
17 after the date of the enactment of this subtitle, the Sec-
18 retary of the Interior shall, after consulting with the Ad-
19 ministrators of the Environmental Protection Agency, the
20 Under Secretary of Commerce for Oceans and Atmos-
21 phere, and the Commandant of the Coast Guard, issue for
22 public comment pumpout station and waste reception fa-
23 cility guidance. The Secretary of the Interior shall finalize
24 the guidance not later than 6 months after the date of
25 enactment of this subtitle. The guidance shall include—

1 (1) guidance regarding the types of pumpout
2 stations and waste reception facilities that may be
3 appropriate for construction, renovation, operation,
4 or maintenance with amounts available under the
5 Act of August 9, 1950 (16 U.S.C. 777a et seq.), as
6 amended by this subtitle, and appropriate location of
7 the stations and facilities within a marina or boat-
8 yard;

9 (2) guidance defining what constitutes adequate
10 and reasonably available pumpout stations and
11 waste reception facilities in boating areas;

12 (3) guidance on appropriate methods for dis-
13 posal of vessel sewage from pumpout stations and
14 waste reception facilities;

15 (4) guidance on appropriate connector fittings
16 to facilitate the sanitary and expeditious discharge
17 of sewage from vessels;

18 (5) guidance on the waters most likely to be af-
19 fected by the discharge of sewage from vessels; and

20 (6) other information that is considered nec-
21 essary to promote the establishment of pumpout fa-
22 cilities to reduce sewage discharges from vessels and
23 to protect United States waters.

24 (b) NOTIFICATION.—Not later than 1 month after
25 the guidance issued under subsection (a) is finalized, the

1 Secretary of the Interior shall provide notification in writ-
2 ing to the fish and wildlife, water pollution control, and
3 coastal zone management authorities of each State, of—

4 (1) the availability of amounts under the Act of
5 August 9, 1950 (16 U.S.C. 77a et seq.) to imple-
6 ment the Clean Vessel Act of 1992; and

7 (2) the guidance developed under subsection
8 (a).

9 **SEC. 5606. EFFECT ON STATE FUNDING ELIGIBILITY.**

10 This subtitle shall not be construed or applied to
11 jeopardize any funds available to a coastal State under
12 the Act of August 9, 1950 (16 U.S.C. 777a et seq.), if
13 the coastal State is, in good faith, pursuing a survey and
14 plan designed to meet the purposes of this subtitle.

15 **SEC. 5607. APPLICABILITY.**

16 The requirements of section 5603 shall not apply to
17 a coastal State if within 6 months after the date of enact-
18 ment of this subtitle the Secretary of the Interior certifies
19 that—

20 (1) the State has developed and is implement-
21 ing a plan that will ensure that there will be
22 pumpout stations and waste reception facilities ade-
23 quate to meet the needs of recreational vessels in the
24 coastal waters of the State; or

1 (2) existing pumpout stations and waste recep-
2 tion facilities in the coastal waters of the State are
3 adequate to meet those needs.

4 **SEC. 5608. DEFINITIONS.**

5 For the purposes of this subtitle the term:

6 (1) "coastal State"—

7 (A) means a State of the United States in,
8 or bordering on the Atlantic, Pacific, or Arctic
9 Ocean; the Gulf of Mexico; Long Island Sound;
10 or one or more of the Great Lakes;

11 (B) includes Puerto Rico, the Virgin Is-
12 lands, Guam, the Commonwealth of the North-
13 ern Mariana Islands, and American Samoa; and

14 (C) does not include a State for which the
15 ratio of the number of recreational vessels in
16 the State numbered under chapter 123 of title
17 46, United States Code, to number of miles of
18 shoreline (as that term is defined in section
19 926.2(d) of title 15, Code of Federal Regula-
20 tions, as in effect on January 1, 1991), is less
21 than one.

22 (2) "coastal waters" means—

23 (A) in the Great Lakes area, the waters
24 within the territorial jurisdiction of the United
25 States consisting of the Great Lakes, their con-

1 necting waters, harbors, roadsteads, and estu-
2 ary-type areas such as bays, shallows, and
3 marshes; and

4 (B) in other areas, those waters, adjacent
5 to the shorelines, which contain a measurable
6 percentage of sea water, including sounds, bays,
7 lagoons, bayous, ponds, and estuaries.

8 (3) "coastal zone" has the same meaning that
9 term has in section 304(1) of the Coastal Zone Man-
10 agement Act of 1972 in section (16 U.S.C.
11 1453(1));

12 (4) "inland State" means a State which is not
13 a coastal State;

14 (5) "type III marine sanitation device" means
15 any equipment for installation on board a vessel
16 which is specifically designed to receive, retain, and
17 discharge human body wastes;

18 (6) "pumpout station" means a facility that
19 pumps or receives human body wastes out of type
20 III marine sanitation devices installed on board ves-
21 sels;

22 (7) "recreational vessel" means a vessel—

23 (A) manufactured for operation, or oper-
24 ated, primarily for pleasure; or

1 (B) leased, rented, or chartered to another
2 for the latter's pleasure; and

3 (8) "waste reception facility" means a facility
4 specifically designed to receive wastes from portable
5 toilets carried on vessels, and does not include lava-
6 tories.

7 **TITLE VI—DOCUMENTATION OF** 8 **VESSELS**

9 **Subtitle A—Waivers**

10 **SEC. 6101. GENERAL WAIVERS.**

11 Notwithstanding sections 12106, 12107, and 12108
12 of title 46, United States Code, and section 27 of the Mer-
13 chant Marine Act, 1920 (46 App. U.S.C. 883), the Sec-
14 retary of Transportation may issue a certificate of docu-
15 mentation for the following vessels:

16 (1) A WEIGH OF LIFE (United States official
17 number 973177).

18 (2) Barge MM 262 (United States official num-
19 ber 298924).

20 (3) BAY LADY (United States official number
21 944634).

22 (4) BLACK MAGIC (United States official
23 number 617553).

24 (5) BLITHE SPIRIT (United States official
25 number 584730).

1 (6) BLUEJACKET (United States official
2 number 973459).

3 (7) BROWN BEAR (United States official
4 number 980667).

5 (8) CAMINANTE (United States official num-
6 ber 953255).

7 (9) DELPHINUS II (United States official
8 number 958902).

9 (10) EAGLE (United States official number
10 645820).

11 (11) EL BONGO (hull identification number
12 C-200146; New York State registration number
13 1104FE).

14 (12) FIFTY-FIFTY (United States official
15 number 272866).

16 (13) FOUR B'S (United States official number
17 915062).

18 (14) HAZANA (State of Hawaii registration
19 number HA9219D).

20 (15) HIGH CALIBRE (United States official
21 number 587630).

22 (16) JUBILEE (United States official number
23 582812).

24 (17) LIQUID GOLD (United States official
25 number 618121).

1 (18) MARIPOSA (United States official num-
2 ber 982102).

3 (19) MISS JOAN (State of Ohio registration
4 number 3250 XK).

5 (20) NORTH ATLANTIC (United States offi-
6 cial number 695377).

7 (21) POTOMAC QUEEN (District of Columbia
8 registration number DC7239B).

9 (22) REDDY JANE (United States official
10 number 928388).

11 (23) SEA HORSE (United States official num-
12 ber 516343).

13 (24) SHORELINE XV (United States official
14 number 644839).

15 (25) SLALOM (Florida registration number
16 FL1590HD).

17 (26) SOUTHERN YANKEE (United States
18 official number 976653).

19 (27) THE DAY DREAM (United States offi-
20 cial number 644805).

21 (28) TOUCH OF CLASS (State of Hawaii reg-
22 istration number HA8762E).

23 (29) WILD GOOSE (State of California reg-
24 istration number CF6431FW).

1 SEC. 6102. WAIVER FOR OIL SPILL ACTIVITIES.

2 Notwithstanding sections 12106 and 12108 of title
3 46, United States Code, and section 27 of the Merchant
4 Marine Act, 1920 (46 App. U.S.C. 883), the Secretary
5 of Transportation may issue a certificate of documentation
6 for the vessel U.S.M.V. DELIVERER (United States offi-
7 cial number 661235) with usage of the vessel under sec-
8 tions 12106 and 12108 of title 46, United States Code,
9 limited to oil spill cleanup and support activities.

10 SEC. 6103. LIMITED WAIVER.

11 Notwithstanding section 27 of the Merchant Marine
12 Act, 1920 (46 App. U.S.C. 883), the Secretary of Trans-
13 portation may issue a certificate of documentation for the
14 vessel TESORO (official number 696047).

15 SEC. 6104. LIMITED WAIVER FOR YUPIK STAR.

16 Notwithstanding section 12106 of title 46, United
17 States Code, and section 27 of the Merchant Marine Act,
18 1920 (46 App. U.S.C. 883), as applicable on the date of
19 the enactment of this Act, the Secretary of Transportation
20 may issue a certificate of documentation for the fish proc-
21 essing vessel YUPIK STAR (United States official num-
22 ber 900823).

23 SEC. 6105. SALE OF VESSELS.

24 (a) SALE AUTHORIZED.—Notwithstanding any other
25 law or any agreement with the United States Government,
26 the vessels described in subsection (b) may be sold to a

1 person that is not a citizen of the United States and trans-
2 ferred to a foreign registry, if that sale is approved by
3 the Secretary of Transportation under section 9(c) of the
4 Shipping Act, 1916 (46 App. U.S.C. 808(c)).

5 (b) VESSELS DESCRIBED.—The vessels referred to in
6 subsection (a) are the following:

7 (1) OCEAN CHALLENGER (United States
8 official number 569583).

9 (2) OCEAN RUNNER (United States official
10 number 564344).

11 (3) OCEAN WIZARD (United States official
12 number 574906).

13 **Subtitle B—Maritime Amendments**

14 **SEC. 6201. STUDENT INCENTIVE PAYMENTS.**

15 (a) AMOUNT OF ANNUAL PAYMENT.—

16 (1) INCREASE IN AMOUNT.—Section 1304(g)(1)
17 of the Merchant Marine Act, 1936 (46 App. U.S.C.
18 1295c(g)(1)) is amended by striking “\$1,200” and
19 inserting “3,000”.

20 (2) APPLICATION.—The amendment made by
21 subsection (a) shall apply to payments under section
22 1304(g)(1) of the Merchant Marine Act, 1936 (46
23 App. U.S.C. 1295c(g)(1)) made with respect to aca-
24 demic years beginning after the date of the enact-
25 ment of this Act.

1 (b) MANNER OF PAYMENT.—Section 1304(g)(1) of
2 the Merchant Marine Act, 1936 (46 App. U.S.C.
3 1295c(g)(1)) is further amended—

4 (1) in subparagraph (B) by inserting “and”
5 after the semicolon;

6 (2) by striking subparagraph (C);

7 (3) by redesignating subparagraph (D) as sub-
8 paragraph (C); and

9 (4) in subparagraph (C) (as so redesignated) by
10 striking “, for the academic years after those years
11 specified in subparagraph (C),”.

12 (c) CONFORMING AMENDMENT.—Section 1304(g)(4)
13 of the Merchant Marine Act, 1936 (46 App. U.S.C.
14 1295c(g)(4)) is amended by striking “paragraph (1)(C)
15 of this subsection” and inserting “paragraph (1)”.

16 **SEC. 6202. TRANSFER OF CERTAIN VESSELS.**

17 The Secretary of the Navy shall transfer to the De-
18 partment of Transportation the following vessels, to be as-
19 signed as training ships to Texas A&M University at Gal-
20 veston, Texas, and to the Maine Maritime Academy at
21 Castine, Maine, when those vessels are no longer required
22 for use by the Navy:

23 (1) U.S.N.S. CHAUVENET (T-AG-29).

24 (2) U.S.N.S. HARKNESS (T-AG-32).

1 **SEC. 6203. MASSACHUSETTS CENTER FOR MARINE ENVI-**
2 **RONMENTAL PROTECTION.**

3 For Fiscal Year 1993, \$242,000 is authorized to be
4 appropriated to the Maritime Administration for the Mas-
5 sachusetts Center for Marine Environmental Protection
6 located at the Massachusetts Maritime Academy.

7 **SEC. 6204. FEDERAL SHIP MORTGAGE INSURANCE FOR**
8 **CERTAIN CONSTRUCTION AND RECONSTRUC-**
9 **TION.**

10 Section 1104B(b)(2) of the Merchant Marine Act,
11 1936 (46 App. U.S.C. 1274a(b)(2)) is amended by strik-
12 ing "73 percent" and inserting "87½ percent".

13 **SEC. 6205. TECHNICAL CORRECTIONS.**

14 (a) MERCHANT SHIP SALES ACT OF 1946.—Section
15 11(b) of the Merchant Ship Sales Act of 1946 (50 App.
16 U.S.C. 1744), as amended by section 6 of the Act of Octo-
17 ber 13, 1989 (Public Law 101-115; 103 Stat. 693; com-
18 monly referred to as the "Maritime Administration Au-
19 thorization, 1990"), is amended to read as if it had not
20 been repealed by section 307(12) of the Coast Guard Au-
21 thorization Act of 1989 (Public Law 101-225; 103 Stat.
22 1925). The effective date of this subsection is December
23 12, 1989.

24 (b) MERCHANT MARINE ACT, 1920.—Section 19 of
25 the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is
26 amended—

(1) in paragraph (1)(b) by striking “sysetms” and inserting “systems”; and

(2) in paragraph (7)(d) by striking “in proceedings under paragraph (1)(b)(7) of this section,” and inserting “under subdivision (b),”.

TITLE VII—PARTNERSHIPS FOR WILDLIFE

SEC. 7101. SHORT TITLE.

This Title may be cited as the “Partnerships for Wildlife Act”.

SEC. 7102. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over \$14 billion on nonconsumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

1 (5) The continued well-being of this once-abun-
2 dant fish and wildlife resource, and even the very ex-
3 istence of many species, is in peril.

4 (6) In 1987, the United States Fish and Wild-
5 life Service reported that forty-five common migra-
6 tory bird species, which are not hunted, had exhib-
7 ited significant declines in abundance, and that thir-
8 teen of these species have experienced widespread,
9 systematic declines of 46.9 percent during a twenty-
10 year study period.

11 (7) There have been nationwide declines in
12 frogs and other amphibians.

13 (8) Over two hundred and seventy-five of verte-
14 brate fish and wildlife species in the United States
15 are now officially classified as threatened or endan-
16 gered by the Federal Government.

17 (9) During the past decade, fish and wildlife
18 species, including invertebrates, were added to the
19 rapidly growing list of threatened and endangered
20 species in North America at the average rate of over
21 one per month.

22 (10) Currently, eighty-two species of inverte-
23 brates in the United States are listed as threatened
24 or endangered under the Endangered Species Act,
25 and another nine hundred and fifty-one United

1 States invertebrate species are candidates for listing
2 under that Act.

3 (11) Proper management of fish and wildlife,
4 before species become threatened or endangered with
5 extinction, is the key to reversing the increasingly
6 desperate status of fish and wildlife..

7 (12) Proper fish and wildlife conservation in-
8 cludes not only management of fish and wildlife spe-
9 cies taken for recreation and protection of endan-
10 gered and threatened species, but also management
11 of the vast majority of species which fall into neither
12 category.

13 (13) Partnerships in fish and wildlife conserva-
14 tion, such as the Federal Aid in Wildlife Restoration
15 Program, the Federal Aid in Sport Fish Restoration
16 Program, and the North American Wetlands Con-
17 servation Act have benefited greatly the conservation
18 of fish and wildlife and their habitats.

19 (14) A program that encourages partnerships
20 among Federal and State governments and private
21 entities to carry out wildlife conservation and appre-
22 ciation projects would benefit all species of fish and
23 wildlife through such activities as management, re-
24 search, and interagency coordination.

1 (15) Many States, which are experiencing de-
2 clining revenues, are finding it increasingly difficult
3 to carry out projects to conserve the entire array of
4 diverse fish and wildlife species and to provide op-
5 portunities for the public to associate with, enjoy,
6 and appreciate fish and wildlife through
7 nonconsumptive activities.

8 **SEC. 7103. PURPOSES.**

9 The purposes of this title are to establish a partner-
10 ship among the United States Fish and Wildlife Service,
11 designated State agencies, and private organizations and
12 individuals—

13 (1) to carry out wildlife conservation and appre-
14 ciation projects to conserve the entire array of di-
15 verse fish and wildlife species in the United States
16 and to provide opportunities for the public to use
17 and enjoy these fish and wildlife species through
18 nonconsumptive activities;

19 (2) to enable designated State agencies to re-
20 spond more fully and utilize their statutory and ad-
21 ministrative authorities by carrying out wildlife con-
22 servation and appreciation projects; and

23 (3) to encourage private donations, under the
24 leadership of the National Fish and Wildlife Foun-

1 dation, to carry out wildlife conservation and appre-
2 ciation projects.

3 **SEC. 7104. DEFINITIONS.**

4 As used in this title—

5 (1) The terms “conserve” and “conservation”
6 means to use, and the use of, such methods and pro-
7 cedures which are necessary to ensure, to the maxi-
8 mum extent practicable, and well being and enhance-
9 ment of fish and wildlife and their habitats for the
10 educational, aesthetic, cultural, recreational, sci-
11 entific, and ecological enrichment of the public. Such
12 methods and procedures may include, but are not
13 limited to, any activity associated with scientific re-
14 sources management, such as research, census, law
15 enforcement, habitat acquisition, maintenance, devel-
16 opment, information, education, population manipu-
17 lation, propagation, technical assistance to private
18 landowners, live trapping, and transplantation.

19 (2) The term “designated State agency” means
20 the State fish and wildlife agency, which shall be
21 construed to mean any department, or any division
22 of any departn ent of another name, of a State that
23 is empowered under its laws to exercise the func-
24 tions ordinarily exercised by a State fish and wildlife
25 agency.

1 (3) The term "fish and wildlife" means wild
2 members of the animal kingdom that are in an
3 unconfined state.

4 (4) The term "Fund" means the Wildlife Con-
5 servation and Appreciation Fund established under
6 section 5(f) of this Act.

7 (5) The term "National Fish and Wildlife
8 Foundation" means the charitable and nonprofit
9 corporation established under section 2 of the Na-
10 tional Fish and Wildlife Foundation Establishment
11 Act (16 U.S.C. 3701).

12 (6) The term "nonconsumptive activities"
13 means fish and wildlife associated activities other
14 than harvesting of fish and wildlife and includes, but
15 is not limited to, photographing, observing, learning
16 about, or associating with, fish and wildlife.

17 (7) The term "Secretary" means the Secretary
18 of the Interior, acting through the Director of the
19 United States Fish and Wildlife Service.

20 (8) The term "wildlife conservation and appre-
21 ciation project" means a project which is directed to-
22 ward nonconsumptive activities or toward the con-
23 servation of those species of fish and wildlife that—

24 (A) are not ordinarily taken for recreation,
25 fur, or food; except that if under applicable

1 State law, any fish and wildlife may be taken
2 for recreation, fur, or food in some but not all,
3 areas of the State, a wildlife conservation and
4 appreciation project may be directed toward the
5 conservation of any of such fish and wildlife
6 within any area of the State in which such tak-
7 ing is not permitted;

8 (B) are not listed as endangered species or
9 threatened species under the Endangered Spe-
10 cies Act of 1973, as amended (16 U.S.C. 1531-
11 1543); and

12 (C) are not marine mammals within the
13 meaning of section 3(5) of the Marine Mammal
14 Protection Act of 1972, as amended (16 U.S.C.
15 1362(5)).

16 **SEC. 7105. WILDLIFE PARTNERSHIP PROGRAM.**

17 (a) IN GENERAL.—The Secretary shall provide the
18 amounts available in the Fund to designated State agen-
19 cies on a matching basis to assist in carrying out wildlife
20 conservation and appreciation projects that are eligible
21 under subsection (b) of this section.

22 (b) ELIGIBLE PROJECTS.—The following wildlife
23 conservation and appreciation projects shall be eligible for
24 matching funds from the Fund:

25 (1) inventory of fish and wildlife species;

1 (2) determination and monitoring of the size,
2 range and distribution of populations of fish and
3 wildlife species;

4 (3) identification of the extent, condition, and
5 location of the significant habitats of fish and wild-
6 life species;

7 (4) identification of the significant problems
8 that may adversely affect fish and wildlife species
9 and their significant habitats;

10 (5) actions to conserve fish and wildlife species
11 and their habitats; and

12 (6) sections of which the principal purpose is to
13 provide opportunities for the public to use and enjoy
14 fish and wildlife through nonconsumptive activities.

15 (c) PROJECT STANDARDS.—The Secretary shall not
16 provide funding to carry out an eligible wildlife conserva-
17 tion and appreciation project unless the Secretary deter-
18 mines that such a project—

19 (1) is planned adequately to accomplish the
20 stated objective or objectives;

21 (2) utilizes accepted fish and wildlife manage-
22 ment principles, sound design and appropriate proce-
23 dures;

24 (3) will yield benefits pertinent to the identified
25 need at a level commensurate with project costs;

1 (4) provides for the tracking of costs and ac-
2 complishments related to the project;

3 (5) provides for monitoring, evaluating, and re-
4 porting of the accomplishment of project objectives;
5 and

6 (6) complies with all applicable Federal environ-
7 mental laws and regulations.

8 (d) LIMITATIONS ON FEDERAL PAYMENT.—The
9 amount of appropriated Federal funds provided from the
10 Fund by the Secretary to any designated State Agency
11 with respect to any fiscal year to carry out an eligible wild-
12 life conservation and appreciation project under this
13 section—

14 (1) may not exceed \$250,000;

15 (2) may not exceed one third of the total
16 project cost for that fiscal year;

17 (3) may not exceed 40 percent of the total
18 project cost for that fiscal year if designated State
19 agencies from two or more States cooperate in im-
20 plementing such a project;

21 (4) may not be used to defray the administra-
22 tive cost of State programs; and

23 (5) may not exceed the State share of the cost
24 of implementing such a project.

1 (e) FORM OF STATE SHARE.—The share of the cost
2 of carrying out eligible projects under this section shall
3 be from a non-Federal source and shall not be in the form
4 of an in-kind contribution.

5 (f) ELIGIBILITY OF DESIGNATED STATE AGEN-
6 CIES.—No designated State agency shall be eligible to re-
7 ceive matching funds from the Wildlife Conservation and
8 Appreciation Fund if revenue derived from activities regu-
9 lated by such an agency is diverted for any purpose other
10 than the management and conservation of fish and wild-
11 life. Such revenue shall include, but not be limited to, all
12 income from the sale of hunting, fishing and trapping li-
13 censes; all income from nongame checkoff systems; all in-
14 come from the sale of waterfowl, habitat conservation, and
15 other stamps that are requisite for engaging in certain ac-
16 tivities regulated by the designated State agency; all in-
17 come from the sale of any commodities and products by
18 the designated State agency from lands and waters admin-
19 istered by the State for fish and wildlife purposes; and
20 all funds apportioned to the designated State agency
21 under the Federal Aid in Wildlife and Sport Fish Restora-
22 tion Programs.

23 (g) ESTABLISHMENT OF FUND.—(1) The Secretary
24 shall establish the Fund, which shall consist of amounts

1 deposited into the Fund by the Secretary under paragraph
2 (2) of this subsection.

3 (2) The Secretary shall deposit into the Fund—

4 (A) amounts appropriated to the Secretary
5 for deposit to the Fund, of which not more than
6 4 percent shall be available to the Secretary
7 and the National Fish and Wildlife Foundation
8 to defray the costs of administering this Act
9 and evaluating wildlife conservation and appre-
10 ciation projects; and

11 (B) amounts received as donations from
12 the National Fish and Wildlife Foundation or
13 other private entities or persons for deposit to
14 the Fund.

15 (3) The Secretary may accept and use donations from
16 the National Fish and Wildlife Foundation and other pri-
17 vate entities or persons for purposes of assisting States
18 under this section.

19 (4) Of the total amount provided from the Fund to
20 assist a State in carrying out a wildlife conservation and
21 appreciation project under subsection (a) of this section,
22 at least 50 percent shall have been donated to the Fund
23 by the National Fish and Wildlife Foundation.

24 (h) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Fund and to the

1 Secretary for each of fiscal years 1992 through 1995 not
2 to exceed \$6,250,000 to match the amount of contribu-
3 tions made to the Fund by the National Fish and Wildlife
4 Foundation.

5 **TITLE VIII—NORTH PACIFIC**
6 **ANADROMOUS STOCKS CON-**
7 **VENTION**

8 **SEC. 8001. SHORT TITLE.**

9 This title may be cited as the “North Pacific Anad-
10 romous Stocks Convention Act of 1992”.

11 **SEC. 8002. PURPOSE.**

12 It is the purpose of this title to implement the Con-
13 vention for the Conservation of Anadromous Stocks in the
14 North Pacific Ocean, signed in Moscow, February 11,
15 1992.

16 **SEC. 8003. DEFINITIONS.**

17 As used in this title, the term—

18 (1) “Anadromous stocks” means stocks of spe-
19 cies listed in the Annex to the Convention that mi-
20 grate into the Convention area.

21 (2) “Anadromous fish” means fish of the spe-
22 cies listed in the Annex to the Convention that mi-
23 grate into the Convention area.

1 (3) "Authorized officer" means a law enforce-
2 ment official authorized to enforce this title under
3 section 8009(a).

4 (4) "Commission" means the North Pacific
5 Anadromous Fish Commission provided for by arti-
6 cle VIII of the Convention.

7 (5) "Convention" means the Convention for the
8 Conservation of Anadromous Stocks of the North
9 Pacific Ocean, signed in Moscow, February 11,
10 1992.

11 (6) "Convention area" means the waters of the
12 North Pacific Ocean and its adjacent seas, north of
13 33 degrees North Latitude, beyond 200 nautical
14 miles from the baselines from which the breadth of
15 the territorial sea is measured.

16 (7) "Directed fishing" means fishing targeted
17 at a particular species or stock of fish.

18 (8) "Ecologically related species" means living
19 marine species which are associated with anad-
20 romous stocks found in the Convention area, includ-
21 ing, but not restricted to, both predators and prey
22 of anadromous fish.

23 (9) "Enforcement officer" means a law enforce-
24 ment official authorized by any Party to enforce this
25 title.

1 (10) "Exclusive economic zone" means the zone
2 established by Proclamation Numbered 5030, dated
3 March 10, 1983. For purposes of applying this title,
4 the inner boundary of that zone is a line cotermi-
5 nous with the seaward boundary of each of the
6 coastal States.

7 (11) "Fish" means finfish, mollusks, crusta-
8 ceans, and all other forms of marine animal and
9 plant life other than marine mammals and birds.

10 (12) "Fishing" means—

11 (A) the catching, taking, or harvesting of
12 fish, or any other activity that can reasonably
13 be expected to result in the catching, taking, or
14 harvesting of fish; or

15 (B) any operation at sea in preparation for
16 or in direct support of any activity described in
17 subparagraph (A).

18 (13) "Fishing vessel" means—

19 (A) any vessel engaged in catching fish
20 within the Convention area or in processing or
21 transporting fish loaded in the Convention area;

22 (B) any vessel outfitted to engage in any
23 activity described in subparagraph (A);

24 (C) any vessel described in subparagraph
25 (A) or (B).

1 (14) "Incidental taking" means catching, tak-
2 ing, or harvesting a species or stock of fish while
3 conducting directed fishing for another species or
4 stock of fish.

5 (15) "Party" means Canada, Japan, the Rus-
6 sian Federation, the United States, and any other
7 nation that may accede to the Convention.

8 (16) "Secretary" means the Secretary of State.

9 (17) "United States Section" means the United
10 States Commissioners of the Commission.

11 **SEC. 8004. UNITED STATES COMMISSIONERS.**

12 (a) COMMISSIONERS.—The United States shall be
13 represented on the Commission by not more than three
14 United States Commissioners to be appointed by and serve
15 at the pleasure of the President. Each United States Com-
16 missioner shall be appointed for a term of office not to
17 exceed 4 years, but is eligible for reappointment. Of the
18 Commissioners—

19 (1) one shall be an official of the United States
20 Government;

21 (2) one shall be a resident of the State of Alas-
22 ka; and

23 (3) one shall be a resident of the State of
24 Washington.

1 An individual is not eligible for appointment under para-
2 graph (2) or (3) as a Commissioner unless the individual
3 is knowledgeable or experienced concerning the anad-
4 romous stocks and ecologically related species of the North
5 Pacific Ocean.

6 (b) ALTERNATE COMMISSIONERS.—The Secretary, in
7 consultation with the Secretary of Commerce, may des-
8 ignate from time to time Alternate United States Commis-
9 sioners to the Commission. An Alternate United States
10 Commissioner may exercise all designated powers and du-
11 ties of a United States Commissioner in the absence of
12 a duly designated Commissioner for whatever reason. The
13 number of such Alternate United States Commissioners
14 that may be designated for any such meeting shall be lim-
15 ited to the number of authorized United States Commis-
16 sioners that will not be present.

17 (c) UNITED STATES SECTION.—The United States
18 Section, in consultation with the Advisory Panel estab-
19 lished in section 8005, shall identify and recommend to
20 the Commission research needs and priorities for anad-
21 romous stocks and ecologically related species subject to
22 the Convention, and oversee the United States research
23 programs involving such fisheries, stocks, and species.

24 (d) COMPENSATION.—United States Commissioners
25 and Alternate United States Commissioners shall receive

1 no compensation for their services as Commissioners and
2 Alternate Commissioners.

3 **SEC. 8005. ADVISORY PANEL.**

4 (a) **ESTABLISHMENT OF PANEL**—An Advisory Panel
5 to the United States Section is established. The Advisory
6 Panel shall be composed of the following:

7 (1) The Commissioner of the Alaska Depart-
8 ment of Fish and Game.

9 (2) the Director of the Washington Department
10 of Fisheries.

11 (3) One representative of the Pacific States Ma-
12 rine Fisheries Commission, designated by the Execu-
13 tive Director of that commission.

14 (4) Eleven members (six of whom shall be resi-
15 dents of the State of Alaska and five of whom shall
16 be residents of the State of Washington), appointed
17 by the Secretary, in consultation with the Secretary
18 of Commerce, from among slate of 12 persons nomi-
19 nated by the Governor of Alaska and a slate of 10
20 persons nominated by the Governor of Washington.

21 (b) **QUALIFICATIONS.**—Persons appointed to the Ad-
22 visory Panel shall be individuals who are knowledgeable
23 or experienced concerning anadromous stocks and eco-
24 logically related species. In submitting a slate of nominees
25 pursuant to subsection (a)(4), the Governors of Alaska

1 and Washington shall seek to represent the broad range
2 of parties interested in anadromous stocks and ecologically
3 related species, and at a minimum shall include on each
4 slate at least one representative of commercial salmon
5 fishing interests and of environmental interests concerned
6 with protection of living marine resources.

7 (c) LIMITATION ON SERVICE.—Any person appointed
8 to the Advisory Panel pursuant to subsection (a)(4) shall
9 serve for a term not to exceed 4 years, and may not serve
10 more than two consecutive terms.

11 (d) FUNCTIONS.—The Advisory Panel shall be invited
12 to all nonexecutive meetings of the United States Section
13 and at such meetings shall be granted the opportunity to
14 examine and to be heard on all proposed programs of
15 study and investigation, reports, and recommendations of
16 the United States Section.

17 (e) COMPENSATION AND EXPENSES.—The members
18 of the Advisory Panel shall receive no compensation or
19 travel expenses for their services as such members.

20 **SEC. 8006. COMMISSION RECOMMENDATIONS.**

21 The Secretary, with the concurrence of the Secretary
22 of Commerce, may accept or reject, on behalf of the
23 United States, recommendations made by the Commission
24 in accordance with article IX of the Convention.

1 **SEC. 8007. ADMINISTRATION AND ENFORCEMENT OF CON-**
2 **VENTION.**

3 (a) **RESPONSIBILITIES.**—The Secretary of Commerce
4 shall be responsible for administering provisions of the
5 Convention, this title, and regulations issued under this
6 title. The Secretary, in consultation with the Secretary of
7 Commerce and the Secretary of Transportation, shall be
8 responsible for coordinating the participation of the Unit-
9 ed States in the Commission.

10 (b) **CONSULTATION AND COOPERATION.**—In carrying
11 out such functions, the Secretary of Commerce—

12 (1) shall, in consultation with the Secretary of
13 Transportation and the United States Section, issue
14 such regulations as may be necessary to carry out
15 the purposes and objectives of the Convention and
16 this title; and

17 (2) may, with the concurrence of the Secretary,
18 cooperate with the authorized officials of the govern-
19 ment of any Party.

20 **SEC. 8008. COOPERATION WITH OTHER AGENCIES.**

21 (a) **IN GENERAL.**—Any agency of the Federal Gov-
22 ernment is authorized, upon request of the Commission,
23 to cooperate in the conduct of scientific and other pro-
24 grams, and to furnish, on a reimbursable basis, facilities
25 and personnel for the purpose of assisting the Commission

1 in carrying out its duties under the Convention. Such
2 agency may accept reimbursement from the Commission.

3 (b) FUNCTIONS OF SECRETARY OF COMMERCE.—In
4 carrying out the provisions of the Convention and this
5 title, the Secretary of Commerce may arrange for coopera-
6 tion with agencies of the United States, the States, private
7 institutions and organizations, and agencies of the govern-
8 ment of any Party, to conduct scientific and other pro-
9 grams, and may execute such memoranda as may be nec-
10 essary to reflect such agreements.

11 **SEC. 8009. ENFORCEMENT PROVISIONS.**

12 (a) DUTIES OF SECRETARIES OF COMMERCE AND
13 TRANSPORTATION.—This title shall be enforced by the
14 Secretary of Commerce and the Secretary of Transpor-
15 tation. Such Secretaries may by agreement utilize, on a
16 reimbursable basis or otherwise, the personnel, services,
17 equipment (including aircraft and vessels), and facilities
18 of any other Federal agency, including all elements of the
19 Department of Defense, and of any State agency, in the
20 performance of such duties. Such Secretaries shall, and
21 the head of any Federal or State agency that has entered
22 into an agreement with either such Secretary under the
23 preceding sentence may (if the agreement so provides), au-
24 thorize officers to enforce the provisions of the Conven-
25 tion, this title, and regulations issued under this title. Any

1 such agreement or contract entered into pursuant to this
2 section shall be effective only to such extent or in such
3 amounts as are provided in advance in appropriations
4 Acts.

5 (b) DISTRICT COURT JURISDICTION.—The district
6 courts of the United States shall have exclusive jurisdic-
7 tion over any case or controversy arising under the provi-
8 sions of this title.

9 (c) POWERS OF ENFORCEMENT OFFICERS.—Author-
10 ized officers may, shoreward of the outlet boundary of the
11 exclusive economic zone, or during hot pursuit from the
12 zone—

13 (1) with or without a warrant or other
14 process—

15 (A) arrest any person, if he or she has rea-
16 sonable cause to believe that such person has
17 committed an act prohibited by section 8010;

18 (B) board, and search or inspect, any fish-
19 ing vessel subject to the provisions of the Con-
20 vention and this title;

21 (C) seize any fishing vessel (together with
22 its fishing gear, furniture, appurtenances,
23 stores, and cargo) used or employed in, or with
24 respect to which it reasonably appears that
25 such vessel was used or employed in, the viola-

1 tion of any provision of the Convention, this
2 title, or regulations issued under this title;

3 (D) seize any fish (wherever found) taken
4 or retained in violation of any provision referred
5 to in subparagraph (C);

6 (E) seize any other evidence related to any
7 violation of any provision referred to in sub-
8 paragraph (C);

9 (2) execute any warrant or other process issued
10 by any court of competent jurisdiction; and

11 (3) exercise any other lawful authority.

12 (d) ADDITIONAL POWERS.—(1) An authorized officer
13 may in the Convention area—

14 (A) board a vessel of any Party that reasonably
15 can be believed to be engaged in directed fishing or,
16 incidental taking of, or processing of anadromous
17 fish, and, without warrant or process, inspect equip-
18 ment, logs, documents, catch, and other articles, and
19 question persons, on board the vessel, for the pur-
20 pose of carrying out the provisions of the Conven-
21 tion, this title, or any regulation issued under this
22 title; and

23 (B) if any such vessel or person on board is ac-
24 tually engaged in operations in violation of any such
25 provision, or there is reasonable ground to believe

1 any person or vessel was obviously so engaged before
2 the boarding of such vessel by the authorized officer,
3 arrest or seize such person or vessel and further in-
4 vestigate the circumstances if necessary.

5 If an authorized officer, after boarding and investigation,
6 has reasonable cause to believe that any such fishing vessel
7 or person engaged in operations in violation of any provi-
8 sion referred to in subparagraph (A), the officer shall de-
9 liver the vessel or person as promptly as practicable to
10 the enforcement officers of the appropriate Party, in ac-
11 cordance with the provisions of the Convention.

12 (2) When requested by the appropriate authorities of
13 a Party, an authorized officer may be directed to attend
14 as a witness, and to produce such available records and
15 files or duly certified copies thereof as may be necessary,
16 for the prosecution by that Party of any violation of the
17 provisions of the Convention or any law of that Party re-
18 lating to the enforcement thereof.

19 **SEC. 8010. UNLAWFUL ACTIVITIES.**

20 It is unlawful for any person or fishing vessel subject
21 to the jurisdiction of the United States—

22 (1) to fish for any anadromous fish in the Con-
23 vention area;

(2) ~~to~~ retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

1 (8) to interfere with, delay, or prevent, by any
2 means, the apprehension, arrest, or detection of an-
3 other person, knowing that such person has commit-
4 ted any act prohibited by this section; or

5 (9) to violate any provision of the Convention,
6 this title, or any regulation issued under this title.

7 **SEC. 8011. PENALTIES.**

8 (a) CIVIL PENALTIES.—(1) Any person who is found
9 by the Secretary of Commerce, after notice and oppor-
10 tunity for a hearing in accordance with section 554 of title
11 5, United States Code, to have committed an act prohib-
12 ited by section 8010 shall be liable to the United States
13 for a civil penalty. The amount of the civil penalty shall
14 not exceed \$100,000 for each violation. Each day of a con-
15 tinuing violation shall constitute a separate offense. The
16 amount of such civil penalty shall be assessed by the Sec-
17 retary of Commerce, or the Secretary's designee, by writ-
18 ten notice. In determining the amount of such penalty,
19 the Secretary of Commerce shall take into account the na-
20 ture, circumstances, extent, and gravity of the prohibited
21 acts committed and, with respect to the violation, the de-
22 gree of culpability, any history of prior offenses, ability
23 to pay, and such other matters as justice may require.

24 (2) Any person against whom a civil penalty is as-
25 sessed under paragraph (1) may obtain review thereof in

1 the appropriate court of the United States by filing a com-
2 plaint in such court within 30 days from the date of such
3 order and by simultaneously serving a copy of such com-
4 plaint by certified mail on the Secretary of Commerce, the
5 Attorney General, and the appropriate United States At-
6 torney. The Secretary of Commerce shall promptly file in
7 such court a certified copy of the record upon which such
8 violation was found or such penalty imposed, as provided
9 in section 2112 of title 28, United States Code. The find-
10 ings and order of the Secretary of Commerce shall be set
11 aside by such court if they are not found to be supported
12 by substantial evidence, as provided in section 706(2) of
13 title 5, United States Code.

14 (3) If any person fails to pay an assessment of a civil
15 penalty after it has become a final and unappealable order,
16 or after the appropriate court has entered final judgment
17 in favor of the Secretary of Commerce, the matter shall
18 be referred to the Attorney General, who shall recover the
19 amount assessed in any appropriate district court of the
20 United States. In such action, the validity and appro-
21 priateness of the final order imposing the civil penalty
22 shall not be subject to review.

23 (4) A fishing vessel (including its fishing gear, fur-
24 niture, appurtenances, stores, and cargo) used in the com-
25 mission mission of an act prohibited by section 8010 shall

1 be liable in rem for any civil penalty assessed for such
2 violation under paragraph (1) and may be proceeded
3 against in any district court of the United States having
4 jurisdiction thereof. Such penalty shall constitute a mari-
5 time lien on such vessel that may be recovered in an action
6 in rem in the district court of the United States having
7 jurisdiction over the vessel.

8 (5) The Secretary of Commerce may compromise,
9 modify, or remit, with or without conditions, any civil pen-
10 alty that is subject to imposition or that has been imposed
11 under this section.

12 (6) For the purposes of conducting any hearing under
13 this section, the Secretary of Commerce may issue subpoe-
14 nas for the attendance and testimony of witnesses and the
15 production of relevant papers, books, and documents, and
16 may administer oaths. Witnesses summoned shall be paid
17 the same fees and mileage that are paid to witnesses in
18 the courts of the United States. In case of contempt or
19 refusal to obey a subpoena served upon any person pursu-
20 ant to this paragraph, the district court of the United
21 States for any district in which such person is found, re-
22 sides, or transacts business, upon application by the
23 United States and after notice to such person, shall have
24 jurisdiction to issue an order requiring such person to ap-
25 pear and give testimony before the Secretary of Commerce

1 or to appear and produce documents before the Secretary
2 of Commerce, or both, and any failure to obey such order
3 of the court may be punished by such court as a contempt
4 thereof.

5 (b) OFFENSES.—(1) A person is guilty of an offense
6 if that person commits any act prohibited by section
7 8010(5), (6), (7), or (8).

8 (2) Any offense described in paragraph (1) is a class
9 A misdemeanor punishable by a fine under title 18, United
10 States Code, or imprisonment for not more than 6 months,
11 or both; except that if in the commission of any offense
12 the person uses a dangerous weapon, engages in conduct
13 that causes bodily injury to any enforcement officer, or
14 places any such officer in fear of imminent bodily injury,
15 the offense is a felony punishable by a fine under title 18,
16 United States Code, or imprisonment for not more than
17 10 years, or both.

18 (c) FORFEITURE.—(1) Any fishing vessel (including
19 its fishing gear, furniture, appurtenances, stores, and
20 cargo) used, and any fish (or a fair market value thereof)
21 taken or retained, in any manner, in connection with or
22 as a result of the commission of any act prohibited by sec-
23 tion 1810 shall be subject to forfeiture to the United
24 States. All or part of such vessel may, and all such fish

1 shall, be forfeited to the United States pursuant to a civil
2 proceeding under this section.

3 (2) Any district court of the United States, shall have
4 jurisdiction, upon application of the Attorney General on
5 behalf of the United States, to order any forfeiture author-
6 ized under paragraph (1) and any action provided for
7 under paragraph (4).

8 (3) If a judgment is entered for the United States
9 in a civil forfeiture proceeding under this section, the At-
10 torney General may seize any property or other interest
11 declared forfeited to the United States, which has not pre-
12 viously been seized pursuant to this title or for which secu-
13 rity has not previously been obtained. The provisions of
14 the customs laws relating to—

15 (A) the seizure, forfeiture, and condemnation of
16 property for violation of the customs law;

17 (B) the disposition of such property or the pro-
18 ceeds from the sale thereof; and

19 (C) the remission or mitigation of any such for-
20 feiture;

21 shall apply to seizures and forfeitures incurred, or alleged
22 to have been incurred, under the provisions of this title,
23 unless such provisions are inconsistent with the purposes,
24 policy, and provisions of this title.

1 (4)(A) Any officer authorized to serve any process in
2 rem that is issued by a court having jurisdiction under
3 section 8009(b) shall—

4 (i) stay the execution of such process; or

5 (ii) discharge any fish seized pursuant to such
6 process;

7 upon receipt of a satisfactory bond or other security from
8 any person claiming such property. Such bond or other
9 security shall be conditioned upon such person delivering
10 such property to the appropriate court upon order thereof,
11 without any impairment of its value, or paying the mone-
12 tary value of such property pursuant to an order of such
13 court. Judgment shall be recoverable on such bond or
14 other security against both the principal and any sureties
15 in the event that any condition thereof is breached, as de-
16 termined by such court.

17 (B) Any fish seized pursuant to this title may be sold,
18 subject to the approval and direction of the appropriate
19 court, for not less than the fair market value thereof. The
20 proceeds of any such sale shall be deposited with such
21 court pending the disposition of the matter involved.

22 (5) For purposes of this section, it shall be a rebutta-
23 ble presumption that all fish found on board a fishing ves-
24 sel and which is seized in connection with an act prohib-

1 ited by section 8010 were taken or retained in violation
2 of the Convention and this title.

3 **SEC. 8012. FUNDING REQUIREMENTS.**

4 (a) AUTHORIZATION.—There are authorized to be ap-
5 propriated from time to time such sums as may be nec-
6 essary for carrying out the purposes and provisions of the
7 Convention and this title, including—

8 (1) necessary travel expenses of the United
9 States Commissioners or Alternate Commissioners;
10 and

11 (2) the United States' share of the joint ex-
12 penses of the Commission.

13 (b) RESEARCH.—Such funds as shall be made avail-
14 able to the Secretary of Commerce for research and relat-
15 ed activities shall be expended to carry out the program
16 of the Commission in accordance with the recommenda-
17 tions of the United States Section and to carry out other
18 research and observer programs pursuant to the Conven-
19 tion.

20 **SEC. 8013. DISPOSITION OF PROPERTY.**

21 The Secretary shall dispose of any United States
22 property held by the International North Pacific Fisheries
23 Commission on the date of its termination in a manner
24 that would further the purposes of this title.

1 SEC. 8014. REPEAL OF THE NORTH PACIFIC FISHERIES ACT

2 OF 1954.

3 The Act of August 12, 1954 (16 U.S.C. 1021-1035)

4 is repealed.

Passed the House of Representatives October 6 (leg-
islative day, October 5), 1992.

Attest: DONNARD K. ANDERSON,
Clerk.